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Advancement of women: implementation of the outcome of the Fourth World Conference on Women and of the twenty-third special session of the General Assembly

Measures taken and progress achieved in follow-up to the implementation of the Beijing Declaration and Platform for Action and the outcomes of the twenty-third special session of the General Assembly

Report of the Secretary-General

Summary

The present report, submitted pursuant to General Assembly resolution 64/141, provides a review of the follow-up and implementation of the Beijing Declaration and Platform for Action and the outcomes of the twenty-third special session. It contains a review of progress made by intergovernmental bodies to incorporate gender equality perspectives into their work, and provides recommendations for further measures to enhance the implementation of gender equality mandates.

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I. Introduction

1. The present report responds to General Assembly resolution 64/141 by presenting an assessment of progress made by intergovernmental bodies in gender mainstreaming and recommendations for further measures to enhance implementation towards gender equality and the empowerment of women. It provides a review of the work of the sixty-fourth session of the General Assembly and its subsidiary bodies, the 2009 substantive session of the Economic and Social Council and its functional commissions. The analysis of progress considers key achievements, lessons learned and good practices.

2. The report complements the report of the Secretary-General on the 15-year review of the implementation of the Beijing Declaration and Platform for Action (E/2010/4-E/CN.6/2010/2) and the report on progress in mainstreaming a gender perspective into all policies and programmes of the United Nations system (E/2010/57), which focus on actions taken by Members States and the United Nations system respectively.

II. Implementation of the Beijing Declaration and Platform for Action: 15 years on

3. The year 2010 marks the fifteenth anniversary of the Fourth World Conference on Women, held in Beijing in 1995. The General Assembly marked the occasion by holding a commemorative event on 2 March 2010. At its fifty-fourth session in 2010, the Commission on the Status of Women undertook a global review of progress in the implementation of the Beijing Declaration and Platform for Action and the outcomes of the twenty-third special session of the General Assembly (see E/2010/27). The review emphasized the sharing of experiences and good practices, ways to overcome remaining obstacles, including those related to the Millennium Development Goals, and addressed new challenges such as the global financial and economic crisis. In preparation for the global review, regional reviews were conducted by all five United Nations regional commissions.[1]

4. The Beijing Platform remains the most comprehensive global policy framework for the full realization of gender equality, women's human rights and the empowerment of women and girls. The review demonstrated that important progress had been made in some areas, most notably in global, regional and national policy development and in increased access for women and girls to education at all levels. In addition, the Convention on the Elimination of All Forms of Discrimination against Women had been increasingly used as a framework for action for the promotion of women's human rights. However, disparities remained between regions and within countries across all 12 critical areas of concern of the Platform. Global averages also hid differences among women on the basis of such factors as economic status, ethnicity, age and disability.

5. The Secretary-General's report on the review (E/2010/4) identified remaining gaps, challenges and important milestones that had been missed. For example, while the outcomes of the twenty-third special session of the General Assembly set 2005

[1] Links to the regional reports and outcomes are available from www.un.org/womenwatch/daw/beijing15/regional_review.html.

as a target for the removal of laws that discriminate against women, many such laws still exist in different countries, and disparities persist between available legislation and its implementation. Similarly, the 30 per cent target of women in decision-making set by the Economic and Social Council in 1990[2] remains unmet, with a global average of 19 per cent women's representation in parliament. Women still outnumber men among the world's poor. They continue to be concentrated in vulnerable and low-paid jobs without social protection, and gender wage gaps persist. Two thirds of illiterate adults are women — a statistic that has not changed in 20 years. There has been very limited progress on reproductive health, with maternal mortality rates remaining unacceptably high. In the area of peace and security, important policy developments over the last few years have not yielded commensurate progress in the implementation of commitments. Violence against women persists worldwide, with a number of States experiencing a rise in the number of reported cases since 2005, despite the priority status it has been afforded in recent years.

6. The review also identified a number of cross-cutting issues in relation to all critical areas of concern that impede progress towards gender equality, including negative attitudes and gender stereotypes; violence against women; the lack of participation of women in decision-making processes; the lack of involvement by men and boys; and the unequal distribution of unpaid work between women and men and its impact on women's employment opportunities and involvement in public life.

7. The review drew attention to the linkages between the accelerated implementation of the Beijing Platform for Action and the achievement of the Millennium Development Goals. The persistent gaps in implementation of the Platform negatively affect progress in achieving the Goals. With the 2015 target date fast approaching, heightened attention to the gender dimensions of all the Goals is required to scale up and better support and resource positive examples of implementation. Regional and national experiences demonstrate that there are many good and promising practices to build on, from legislative change, policy development and capacity-building, to sector-specific initiatives and efforts to improve data collection.

8. The review identified a set of common strategies that can strengthen and support implementation across the critical areas of concern. It emphasized the role of institutional development and the importance of the gender mainstreaming strategy to ensure that needs and priorities of women and girls, men and boys are systematically incorporated in policies and programmes. The review stressed the need for greater political will and leadership at all levels and the need to increase the capacity of and resources to national mechanisms for gender equality across all sectors. It noted positive trends in the greater application of gender-sensitive indicators and in cooperation between users and producers of statistics, in particular national statistical offices. However, the review also highlighted significant remaining challenges to monitoring implementation of the Beijing Platform for Action, in particular in terms of methodologies and data collection costs. It concluded that improved analysis, monitoring and reporting tools and instruments are needed, based on the systematic collection and use of sex-disaggregated data. Implementation of strategies and instruments for the improved tracking and

[2] See Economic and Social Council resolution 1990/15, para. 7, recommendation VI.

monitoring of allocation of resources and expenditures for the promotion of gender equality and women's empowerment, such as gender-responsive budgeting, was recommended to increase coherence of policy commitments and strengthen transparency.

9. At its fifty-fourth session, the Commission discussed many obstacles and challenges to gender equality and women's empowerment that require urgent and priority attention. It adopted a declaration in which Governments pledged to undertake further action to ensure the full and accelerated implementation of the Beijing Declaration and Platform for Action and the outcomes of the twenty-third special session of the General Assembly. The documentation to and outcomes of the Commission, including the declaration, were presented to the Economic and Social Council at its 2010 substantive session. Key findings and recommendations were reflected in the Council's ministerial declaration, which was adopted at the conclusion of the high-level segment on implementing the internationally agreed goals and commitments in regard to gender equality and empowerment of women. It called for stronger action to close implementation gaps in the achievement of gender equality and the empowerment of women. The declarations and findings of the 15-year review provide an important contribution to the High-level Plenary Meeting on the Millennium Development Goals, to be held by the General Assembly in September 2010.

III. Attention to gender equality in intergovernmental processes

10. The General Assembly has repeatedly reaffirmed its primary and essential role, along with that of the Economic and Social Council and the catalytic role of the Commission on the Status of Women, in promoting gender equality and the empowerment of women based on the full implementation of the Beijing Declaration and Platform for Action and the outcomes of the twenty-third special session.[3] To advance implementation, the Assembly has called upon all bodies of the United Nations system to fully mainstream a gender perspective into all issues under their consideration and within their mandates. In addition, it has requested that reports of the Secretary-General submitted to the General Assembly, the Economic and Social Council and their subsidiary bodies systematically address gender perspectives in order to facilitate gender-sensitive policy development (see General Assembly resolution 64/141, para. 14).

11. This section considers progress towards gender equality and the empowerment of women at the international level within the documentation and outputs of the General Assembly and the Economic and Social Council. Attention is also paid to the need for enhanced accountability in the implementation of gender-equality commitments at the international, regional and national levels, including through improved monitoring and reporting.

A. General Assembly

12. A review of the work of the General Assembly indicated that there was little change from the previous year with respect to the inclusion of gender-equality

[3] See resolutions 60/140, 61/145, 62/137, 63/159 and 64/141.

issues in its documentation and outputs. At its sixty-fourth session, approximately 30 per cent of the more than 260 resolutions contained references to issues of gender equality and the empowerment of women. Such references ranged from general statements and consideration for specific groups to more in-depth analysis, strategies and action-oriented recommendations for Member States, the United Nations system and other stakeholders. At the same time, around 50 per cent of the reports of the Secretary-General submitted to the Assembly or its subsidiary bodies contained references to gender-equality issues.[4]

13. Gender equality issues were more likely to be referenced in reports and resolutions in certain committees and under certain agenda items. For example, documentation under the headings "Promotion of sustained economic growth and development", "Promotion of human rights" and "Effective coordination of humanitarian assistance efforts" was more likely to include references to gender equality and the empowerment of women than the headings "Maintenance of international peace and security", "Disarmament" and "Organizational and administrative", which included only limited references. The Second and Third Committees were most likely to make specific reference to gender equality issues in their documentation and outcomes. In contrast, the First and Sixth Committees were least likely to include such issues explicitly in their outputs, with only one resolution from both Committees making such a reference (resolution 64/110). Approximately one in three resolutions of the plenary of the General Assembly made reference to gender equality or women's empowerment issues.

1. Issues highlighted in the work of the General Assembly

14. This section provides selected examples of gender-equality issues considered by the General Assembly within and across a variety of agenda items. These issues included women's human rights, violence against women, women in development and the need for improved data collection and analysis.[5]

(a) Women's human rights

15. In its resolution 64/138 on the Convention on the Elimination of All Forms of Discrimination against Women, the General Assembly recognized that the realization of women's human rights is essential to advance development and peace and security. Prominence was given to women's human rights in the consideration of women migrant workers, women and girls with disabilities and the girl child.[6] The Assembly also considered women's human rights in such areas as the promotion of democratization, the elimination of discrimination based on religion or belief and the legal empowerment of the poor.[7] It noted examples of achievements in strengthening women's human rights in national and regional normative and legislative frameworks and encouraged Member States to ratify or accede to various

[4] The reports of the Secretary-General and resolutions adopted by the General Assembly at its sixty-fourth session — available in the United Nations Official Document System (ODS) up to mid-June 2010 — were reviewed for content related to mainstreaming the goals of gender equality and the empowerment of women.

[5] See resolutions 64/137, 64/138, 64/139, 64/140, 64/145 and 64/217.

[6] See resolutions 64/145 and 64/166.

[7] See resolutions 64/155 and 64/164 and the report of the Secretary-General (A/64/133).

international instruments to guarantee women's human rights and ensure full compliance with respective obligations.[8]

16. Based on the reports before it, the General Assembly considered legislation and policy adopted by Member States. For example, the African Union gender policy adopted in 2009 committed to a 10-year implementation plan that included legislation for legal protection against discrimination and for ensuring gender equality (A/64/208). The Assembly also received information about policies developed by Member States that focused on increased education and training in women's rights for Government employees and journalists, legal empowerment efforts and legal literacy campaigns for women.[9]

17. To promote women's human rights more effectively, more action should concentrate on access to services and enforcement of rights. For example, in its resolution 64/145 on the girl child, the General Assembly urged States to ensure the right of girls to health care and services, including sexual and reproductive health, and the enforcement of laws on a minimum legal age for marriage. In its resolution 64/139 on violence against women migrant workers, it urged Member States to adopt and implement legislation to protect all women migrant domestic workers and establish mechanisms for investigating and reporting complaints.

(b) Violence against women and girls

18. As it had at its sixty-third session, the General Assembly repeatedly stressed its concern about the continuing prevalence of violence against women and girls in a number of key resolutions. Violence against women violates fundamental freedoms and rights, and impedes social and economic development.[10] The report of the Secretary-General on the work of the Organization (A/64/1) also highlighted women's increased risk of violence owing to their lack of empowerment and social exclusion, and noted that that risk was accentuated in times of economic downturn. The Assembly recognized the special vulnerability of women refugees and migrant workers, women and girls with disabilities, and women and girls with poor access to sanitation.[11] It also noted the prevalence of violence against women in specific Member States.[12]

19. Various reports of the Secretary-General and resolutions of the General Assembly[13] also considered the issue of violence against women, especially sexual violence, in conflict and post-conflict situations. Efforts to address violence against women in those situations focused on fighting the impunity of perpetrators, strengthening investigations and prosecution, and implementing nationally led initiatives to enforce the right of protection against gender-based violence in such situations. Attention was also drawn to efforts to improve data on sexual violence and exploitation in peacekeeping missions and to the development of training manuals and education on the issue for both international and national personnel. In

[8] See resolutions 64/139, 64/145, 64/166 and 64/178.

[9] See A/64/134, A/64/160, A/64/175, A/64/180, A/64/183, A/64/188, A/64/208, A/64/216, A/64/228, A/64/293, A/64/298, A/64/309 and A/64/333.

[10] See resolutions 64/137, 64/139, 64/145 and 64/217.

[11] See resolutions 64/137, 64/139 and 64/145 and the report of the Secretary-General (A/64/169).

[12] See resolutions 64/11, 64/175 and 64/238.

[13] See A/64/1, A/64/163, A/64/183, A/64/228, A/64/254, A/64/298 and A/64/556, and resolutions 64/77, 64/130, 64/137, 64/141 and 64/226.

its resolution 64/76 on the strengthening of the coordination of emergency humanitarian assistance of the United Nations, the Assembly reaffirmed the obligation of all parties in conflict settings to protect civilian populations, taking into account the particular needs of women and children.

20. The report of the Secretary-General on the intensification of efforts to eliminate all forms of violence against women (A/64/151) identified such good practices as the development of model frameworks for legislation, assistance and treatment for victims of violence against women, and regional cooperation in the form of observatories and similar monitoring mechanisms. It also highlighted the need for continued efforts in training and capacity-building to support the effective implementation of national laws and policies and care for victims and survivors of violence against women. In its corresponding resolution 64/137, the General Assembly encouraged Member States to join forces in addressing the global pandemic of all forms of violence against women. It also expressed its appreciation for the progress achieved in the Secretary-General's 2008-2015 campaign "UNiTE to End Violence against Women" and other United Nations initiatives to end violence against women.

21. The report of the Secretary-General on the follow-up to the tenth anniversary of the International Year of the Family (A/64/134) stressed the need for Governments to spearhead attitudinal change with regard to traditional and cultural practices of violence against women and manifestations such as early marriages and spousal abuse. Strategies include specific measures targeting men as role models for young men and boys in the promotion of gender equality and the elimination of violence against women and girls (see resolution 64/130).

(c) Women in development

22. The General Assembly has consistently highlighted that gender equality and the empowerment of women are essential to achieving sustained economic growth, poverty eradication and sustainable and equitable development.[14] However, there has been mixed progress in implementing gender-related development goals in national development plans. There remains a persistent lack of access by women to essential social services, human and physical capital investments and technology (see A/64/80-E/2009/79).

23. In the labour force, the gaps between women's and men's participation and their respective wages are slowly decreasing; however, significant gender-based occupational segregation persists.[15] Policy design must address specific measures to achieve women's economic empowerment. The report of the independent expert on the question of human rights and extreme poverty (A/64/279) noted that, because Government employment protection measures were often based on the stereotype of the male breadwinner and female caregiver, they tended to focus on male-dominated areas of the economy. Social protection measures therefore often failed to take into account the situation of female-headed households.

24. In its resolution 64/217, the General Assembly urged Governments to adopt labour market policies for full employment and decent work and to conduct gender analysis of labour laws, specifically targeting occupational segregation and gender-

[14] See resolutions 64/135, 64/215, 64/217 and 64/218.

[15] See reports of the Secretary-General A/64/61-E/2009/3, A/64/134 and A/64/665.

based wage gaps. It highlighted a range of strategies for the promotion of women's economic empowerment that could be tailored to national circumstances. These include the adoption of legislation and policies that ensure women's equal access to income, land and other assets, and financial resources; the creation of an environment conducive to women entrepreneurs; training, education and information on business practices; and the strengthening of the role and implementation of microfinance and microcredit programmes.

25. Persistent inequalities faced by women in rural areas continue to pose significant challenges to the achievement of the internationally agreed development goals, including the Millennium Development Goals (see A/64/190). In its resolution 64/140 on the improvement of the situation of women in rural areas, the General Assembly recognized the critical contribution of rural and indigenous women to enhancing agricultural and rural development and food security. The Assembly called for improved access to resources in on-farm and off-farm production and for legislation to protect valuable innovations, knowledge and practices of women in rural areas, including indigenous women.

26. The report on cooperatives in social development noted the need to promote enhanced involvement of women in agricultural cooperatives and membership in their decision-making bodies (A/64/132). In a number of resolutions, the General Assembly called for greater empowerment of women producers to gain access to national and international markets.[16] The use of agricultural and information and communications technologies such as mobile communications technology can also have significant benefits in terms of productivity and economic empowerment for women in rural areas and women in agriculture.[17]

(d) Data and monitoring

27. The General Assembly recognized the need for enhanced accountability in the implementation of gender-equality commitments through improved monitoring and reporting. It made clear calls to strengthen capacity in the collection, analysis and use of data disaggregated by sex, age and geographical area. Recommendations for such improved data and monitoring capacity were made across different thematic areas, whether directly focused on women,[18] other areas of development or peace and security, and in reports on the implementation of international policy commitments and human rights conventions.[19]

28. The lack of data and monitoring capacity constrains the ability to track progress, design policies, celebrate gains and build on lessons learned. Numerous reports of the Secretary-General emphasized that capacity can be improved through the systematic collection of sex-disaggregated and gender-related data in areas such as sanitation, family and child well-being, social development indicators and good governance, and in improved reporting practices.[20]

29. Different data collection and monitoring strategies were highlighted. The report of the Secretary-General on integrating gender perspectives into national

[16] See resolutions 64/140, 64/217 and 64/224.
[17] See resolutions 64/140 and 64/197 and the report of the Secretary-General A/64/64-E/2009/10.
[18] See resolutions 64/137, 64/139, 64/140, 64/145 and 64/217.
[19] See A/64/327 and A/64/331.
[20] See A/64/134, A/64/169, A/64/172, A/64/204, A/64/306 and A/64/327.

development strategies noted many good practices, such as gender-responsive budgeting techniques for linking gender-equality goals to fiscal priorities and time-use surveys that can be used to design policies to overcome stereotypes and economic and social disincentives, thereby improving gender equality in the distribution of paid and unpaid work (A/64/162 and Corr.1).

30. The development of indicators on violence against women by the Statistical Commission, in collaboration with the Commission on the Status of Women (see chapter III, section B, of the present report and A/64/151) was welcomed and encouraged by the General Assembly.[21] Resolution 64/178 on the coordination of efforts against trafficking in persons also recognized the importance of improving comparable sex-disaggregated data on trafficking.

31. Sector-specific strategies for data and monitoring capacities can provide effective targeting and improve policy design. Sustainable progress towards gender equality and the empowerment of women requires a stronger data and monitoring framework with robust collection and measurement methodologies.

2. Attention to gender equality at international high-level events

32. During the past year, high-level events and discussions were held on a number of thematic areas, including the Millennium Development Goals, climate change, the global financial and economic crisis, water and reforms for system-wide coherence in the United Nations.[22]

33. The high-level interactive dialogue on water was convened by the President of the General Assembly on World Water Day, 22 March 2010. The interactive panels considered, inter alia, the link between water and gender equality and the empowerment of women. The discussion highlighted the need for women to be more involved in decision-making on water resource management and recognized that women are often the most informed about local water sources. In addition, women and children often suffer the most from lack of water and sanitation in the aftermath of disasters.[23] Access to water and sanitation is a prerequisite for reducing child mortality and enhancing maternal health.[24]

34. In terms of combating and mitigating climate change, although gender-equality issues were considered briefly in the work of the Ad hoc Working Group on Long-Term Cooperative Action (see FCCC/AWGLCA/2009/14), the outcomes of the United Nations Climate Change Conference in Copenhagen did not include explicit considerations for gender perspectives in any of its decisions (see FCCC/CP/2009/11 and Add.1). Gender perspectives were mentioned in one side-event of the United Nations Development Programme that highlighted the need to consider gender equality goals in adaptation strategies, in particular in terms of the gender-differentiated impacts of natural disasters.

35. At its sixty-fourth session, the General Assembly passed a landmark resolution aimed at improving the system-wide coherence of the United Nations (resolution 64/289). The resolution established the new United Nations Entity on Gender Equality and the Empowerment of Women, called UN Women, that consolidates the

[21] See resolutions 64/137 and 64/139.

[22] See www.un.org/ga/president/64/issues/index.shtml.

[23] See www.un.org/ga/president/64/thematic/water/summary.pdf.

[24] See www.un.org/ga/president/64/statements/closingwatere220310.shtml.

mandates and functions of the Office of the Special Adviser on Gender Issues and Advancement of Women, the Division for the Advancement of Women, the United Nations Development Fund for Women and the International Research and Training Institute for the Advancement of Women. For many years, the United Nations has faced serious challenges and gaps in its efforts to promote gender equality globally, including inadequate funding and the absence of a recognized driver. UN Women, which will become operational by January 2011, will strengthen the Organization's ability to support and work with Member States in accelerating progress towards gender equality and the empowerment of women.[25]

36. The General Assembly also undertook preparations for the 2010 High-level Plenary Meeting on the Millennium Development Goals, to be held in September 2010. The meeting aims to galvanize commitment, rally support and spur collective action to achieve the Millennium Development Goals by 2015.[26] The report of the Secretary-General, entitled "Keeping the promise: a forward-looking review to promote an agreed action agenda to achieve the Millennium Development Goals by 2015" (A/64/665), highlighted the challenges and strategies for achieving the Goals, stressing the cross-cutting implications of gender inequality and the need to look at all the Goals through a gender lens.

3. Subsidiary bodies of the General Assembly

(a) Peacebuilding Commission

37. Although the report of the Peacebuilding Commission on its third session (A/64/341-S/2009/444) and the report on the Peacebuilding Fund (A/64/217-S/2009/419) did not include a systematic gender analysis, they drew attention to the involvement of women in peace consolidation efforts and addressed gender-based violence in Burundi, the Central African Republic, Côte d'Ivoire, Guinea, Liberia and Sierra Leone.

38. The Fund engaged partners and national leadership in various projects, including the establishment of Liberia's first-ever unit for the prosecution of crimes of sexual and gender-based violence; support to microfinancing for women entrepreneurs in Côte d'Ivoire; and the strengthening of women's participation as voters and candidates and the provision of gender sensitivity training for male and female elected officials in Burundi's electoral process. The Commission continued to mainstream gender equality issues through country-specific mechanisms. For example, pursuant to Security Council resolution 1820 (2008), the peacebuilding strategic framework for the Central African Republic, adopted on 6 May 2009, commits to implementing systems for the prevention of sexual and gender-based violence, including training for security forces and the identification of and support for victims of violence, particularly women.

39. However, such initiatives are still not systematically applied across all countries covered by the Commission or the Fund. Stronger efforts are needed to ensure that policy frameworks and planning instruments provide adequate guidance for implementing commitments on gender equality and the empowerment of women; that women are systematically consulted in all planning and prioritization processes; and that their priorities are funded with adequate resources.

[25] See www.unwomen.org.

[26] See http://www.un.org/ga/president/64/issues/mdgs.shtml.

40. The introduction of a gender marker in the 2009 revised Peacebuilding Fund guidelines enabled the Fund to better track gender-related allocations which, as at 12 May 2010, amounted to over $38 million or approximately 23 per cent of the total approved project budget, down from over 30 per cent of the 2009 budget. An estimated 5.9 per cent of the budget was directed to projects designed specifically for women affected by conflict, with a further 6.8 per cent for projects with specific women beneficiaries or gender-related components. An additional 10.3 per cent of the total approved budget was directed to projects containing the inclusion of women and/or gender equality as one of its objectives. However, the Fund is committed to increase allocations in this area, significantly using the gender marker as an entry point to improve gender mainstreaming in projects and to advocate for the increased funding of gender-sensitive projects.

41. The current review of the United Nations peacebuilding architecture provides a critical opportunity to build upon the experience gained by the Peacebuilding Commission, in order to further deliver on its gender equality mandate in a deliberate manner, including by advocating for adequate resources and monitoring the implementation of commitments.

(b) Human Rights Council

42. Since 1995, action has intensified on the promotion, protection and realization of women's human rights. The Convention on the Elimination of All Forms of Discrimination against Women, which marked its thirtieth anniversary in 2009, has increasingly been used as a legal framework for action. States have made progress in carrying out legal reforms, enhancing equality between women and men before the law. Despite such advances, discrimination against women continues in law and in practice across all regions, with many suffering from multiple forms of discrimination and limited access to resources and opportunities. The Committee on the Elimination of Discrimination against Women, the Human Rights Committee and other United Nations bodies and mechanisms such as the Human Rights Council play a critical role in addressing persistent discrimination and the violation of women's human rights.

43. At its annual full-day discussion on women's human rights in June 2009, the Human Rights Council addressed the theme "Equality before the law: concrete steps to further women's equality". The panel discussion focused on non-discrimination under the law, with a view to identifying concrete steps to greater equality between women and men. Stronger action is needed to repeal discriminatory laws and to effectively address the remaining gaps between legislation and its effective implementation. In follow-up, the Human Rights Council adopted resolution 12/17 on the elimination of discrimination against women, in which it called upon States to fulfil their international obligations and commitments to revoke any remaining laws that discriminate on the basis of sex and to remove gender bias in the administration of justice. It also requested the United Nations High Commissioner for Human Rights to prepare a thematic study on discrimination against women, in law and in practice, to be presented at the Council's fifteenth session in September 2010.

44. At its tenth and eleventh sessions in 2009, the Council continued to draw attention to various aspects of gender equality, women's human rights and the empowerment of women, including the administration of justice (resolution 10/2),

the right to food (resolution 10/12) and trafficking in persons (resolution 11/3). In resolution 11/2 on accelerating efforts to eliminate all forms of violence against women, the Council stressed the importance of renewed political will and enhanced efforts to overcome obstacles and challenges faced by States in addressing, preventing, investigating, prosecuting and punishing the perpetrators of all forms of violence against women and girls.

45. The Council also adopted resolution 11/8 on preventable maternal mortality and morbidity and human rights. It requested all States to renew their political commitment to eliminating maternal mortality and morbidity and to redouble their efforts to ensure the full and effective implementation of their human rights obligations and global commitments on gender equality and the empowerment of women. The resolution requested the Office of the United Nations High Commissioner for Human Rights to prepare a thematic study to identify the human rights dimensions of preventable maternal mortality and morbidity in the existing international legal framework and to recommend options for addressing those dimensions throughout the United Nations system (see A/HRC/14/39).

46. In accordance with resolution 6/30, the Council continued to review the situation of women's human rights in the context of the universal periodic review. Specific recommendations were addressed to Member States to end discrimination against women and enhance the protection of their human rights, namely to amend or repeal laws that do not adequately protect women's rights; combat violence and sexual abuse against women; eliminate female genital mutilation; reinforce protection against early marriage; enact comprehensive laws to address trafficking of women; and increase women's participation in decision-making processes. In September 2009, the Council focused on the universal periodic review in its annual discussion on the integration of a gender perspective in its work. The discussion offered further advice on how to consider a gender perspective during the entire universal periodic review process, from national consultations to the review itself, the implementation of recommendations and in media coverage.

B. Economic and Social Council

47. In 2009, while several reports of the Secretary-General to the Economic and Social Council and its functional commissions contained gender-sensitive recommendations,[27] less than half the resolutions adopted by the Council at its substantive session incorporated a gender perspective. Moreover, less than a quarter of the decisions and resolutions adopted by functional commissions (excluding the outcomes adopted by the Commission on the Status of Women) incorporated gender perspectives.

1. 2009 session of the Economic and Social Council

48. In recent years, the ministerial declarations of the Economic and Social Council consistently recognized that gender equality and the empowerment of women were critical to the achievement of sustainable development and to

[27] See E/CN.3/2009/9, E/CN.5/2009/2, E/CN.5/2009/3, E/CN.5/2009/4, E/CN.9/2009/3, E/CN.17/2009/4, E/CN.17/2009/5, E/CN.17/2009/6, E/2009/3-A/64/61, E/2009/53, E/2009/72, E/2009/81 and E/2009/87-A/64/84.

combating poverty, hunger and disease. They emphasized the importance of incorporating gender perspectives in such areas as water, sanitation, human settlements and good governance, and of enhancing access by poor women and men to productive assets. In the declarations, the Council reaffirmed the determination of States to protect women's human rights by ensuring equal access to full and productive employment and decent work, and underlined the need for the consistent use of gender mainstreaming across sectors.

49. At the 2009 annual ministerial review, held during the high-level segment, the Council adopted the ministerial declaration "Implementing the internationally agreed goals and commitments in regard to global public health" (A/64/3, chapter III, section E). It emphasized the important interrelationship between human rights and global public health, development, poverty eradication and education. While calling for action to promote gender equality and the empowerment of women, it stressed the importance of addressing stereotypes and eliminating all harmful practices through concerted efforts to counteract violence against women and girls. It also stressed the importance of developing gender-sensitive multisectoral health policies and programmes to address women's needs. Given the slow progress in achieving Millennium Development Goals 4 and 5 on improving child and maternal health, the declaration called on States to renew their commitment to preventing and eliminating child and maternal mortality and morbidity and to strengthening health systems as a key component of an integrated approach. It further called for integrating HIV/AIDS interventions into programmes for primary health care, sexual and reproductive health, and maternal and child health.

50. Under the operational activities segment, resolution 2009/1 on progress in the implementation of General Assembly resolution 62/208 on the triennial comprehensive policy review of operational activities for development of the United Nations system welcomed the performance indicators for gender equality and women's empowerment (the scorecard) developed by the United Nations Development Group. The Council encouraged their systematic use by United Nations country teams and called on the United Nations system to include gender-sensitive indicators in their strategic frameworks.

51. Under the coordination segment, resolution 2009/28 on the role of the United Nations system in implementing the ministerial declaration on the internationally agreed goals and commitments in regard to sustainable development adopted in 2008, the Council requested the United Nations system to continue to promote gender equality and the empowerment of women in efforts to ensure the achievement of sustainable development.

52. Under the humanitarian affairs segment, in resolution 2009/3 on the strengthening of the coordination of emergency humanitarian assistance of the United Nations, the Council reiterated the need to mainstream a gender perspective into humanitarian assistance in a comprehensive and consistent manner. The Council requested Member States, relevant United Nations organizations and other relevant actors to ensure that all aspects of humanitarian response addressed the specific needs of women, girls, men and boys, including through improved collection, analysis and reporting of sex- and age-disaggregated data. It urged States to continue to prevent, investigate and prosecute acts of gender-based violence, including sexual violence, in humanitarian emergencies, and called for strengthening support services to victims of such violence.

53. Under the general segment, in resolution 2009/31 on the implementation of the programme of action for the least developed countries for the decade 2001-2010, the Council recognized the important linkages between development, poverty eradication and gender equality. Resolution 2009/12 on mainstreaming a gender perspective into all policies and programmes in the United Nations system reaffirmed gender mainstreaming as a globally accepted strategy for achieving gender equality and requested the Inter-Agency Network on Women and Gender Equality to continue to provide practical support to its members in gender mainstreaming.

2. Functional commissions of the Economic and Social Council

54. All the functional commissions incorporated gender perspectives in their work to some extent, including in relation to youth, ageing, reproductive and maternal health, sustainable development, crime, drugs and narcotics, and statistics.

55. The Statistical Commission continued its work on gender statistics and, in decision 40/110, adopted an interim set of indicators on violence against women. It requested further work on existing methodological guidelines for measuring violence against women and called on the United Nations Statistics Division to initiate a trial compilation of national statistics based on the interim set of indicators. The decision also took note of the suggestion to include a general consideration of gender statistics in its agenda.

56. In resolution 47/1 on policies and programmes involving youth, the Commission for Social Development encouraged Member States to collect relevant data, disaggregated by age and gender. It urged Member States to bear in mind the principles of gender balance and non-discrimination when including youth representatives in their delegations to relevant United Nations meetings and conferences. In resolution 47/3 on the first review and appraisal of the Madrid International Plan of Action on Ageing, 2002, the Commission called upon Member States to adopt measures to promote and protect the rights of older persons while mainstreaming a gender perspective in the decision-making process affecting their lives. It also encouraged funding for research and data-collection initiatives, including on ageing and gender. As in previous years, the resolution on the social dimensions of the New Partnership for Africa's Development (Economic and Social Council resolution 2009/20) welcomed the efforts to mainstream a gender perspective and the empowerment of women in the implementation of the New Partnership.

57. The Commission on Population and Development adopted resolution 2009/1 on the contribution of the Programme of Action of the International Conference on Population and Development to the internationally agreed development goals, including the Millennium Development Goals. It called for strategies to combat and eliminate gender stereotypes in all spheres of life and actions to achieve equality between women and men in all areas of family responsibility, in sexual and reproductive life and in political life and decision-making. It urged Governments to promote and protect women's and girls' right to education at all levels and to provide young people with comprehensive education on gender equality and on how to deal positively and responsibly with their sexuality. The resolution further urged Governments to make special efforts to strengthen relevant national institutions and mechanisms to generate population data, disaggregated by sex, age and other

categories, for monitoring progress in maternal health, universal access to reproductive health and advances in the empowerment of women and gender equality, and to use such data for the formulation and implementation of population and development policies.

58. In its resolution 17/1 on policy options and practical measures to expedite implementation in agriculture, rural development, land, drought, desertification and Africa, the Commission on Sustainable Development called for the promotion of gender equality by involving women in decision-making in all activities related to rural development. It also called for measures that promote women's access to and ownership of means of production, including land, capital and entrepreneurship.

59. In its resolution 2009/8, the Economic and Social Council made a series of recommendations for consideration by national Governments, the Commission on Science and Technology for Development and the United Nations Conference on Trade and Development. One of the recommendations adopted by the Commission was to expand opportunities, especially for women, in science, technology and engineering education and research, in particular in the emerging technologies. The Council also recommended that the Commission should provide a forum to share best practices and information on new technologies, financing mechanisms and regulatory measures for broadband connectivity, as well as access strategies and technologies to supplement broadband Internet access, with a focus on reaching women and rural communities.

60. In the Political Declaration and Plan of Action on International Cooperation towards an Integrated and Balanced Strategy to Counter the World Drug Problem, adopted by the Commission on Narcotic Drugs, States committed to ensuring that drug control policies, measures and interventions took into account the specific needs and circumstances that women faced with regard to drug problems. They decided to undertake effective measures to ensure that women, as well as men, had access to and benefited equally and without discrimination from, drug control policies and strategies by involving them actively in all stages of programme and policy development and implementation. The Plan of Action called on Member States to ensure that a broad range of drug demand reduction services responded best to the needs of vulnerable groups, taking into account gender considerations. In its resolution on promoting international cooperation in addressing the involvement of women and girls in drug trafficking, especially as couriers (52/1), the Commission stressed the importance of collecting and analysing data disaggregated by sex and age and of conducting research on related gender issues. It requested the United Nations Office on Drugs and Crime (UNODC) to carry out scientific research and analysis on activities related to drug trafficking involving women and girls at the national and international levels. The Commission also adopted a resolution on the use of pharmaceutical technology to counter drug-facilitated sexual assault ("date rape") (resolution 52/8).

61. The Commission on Crime Prevention and Criminal Justice adopted resolution 18/1 on supplementary rules specific to the treatment of women in detention and in custodial and non-custodial settings. It invited States to take into consideration the specific needs and circumstances of women in detention and in custodial and non-custodial settings when developing relevant legislation, procedures, policies and action plans. It encouraged States to collect, maintain, analyse and publish data on women in detention and in custodial and non-custodial settings for the purpose of

enhancing correctional policies and best practices. It also requested UNODC to convene an open-ended intergovernmental expert group meeting in 2009, to develop supplementary rules specific to the treatment of women in detention and in custodial and non-custodial settings. Accordingly, the expert group meeting submitted the outcome of its work to the Twelfth United Nations Congress on Crime Prevention and Criminal Justice in 2010. In its resolution on supporting national and international efforts for child justice reform, in particular through improved coordination in technical assistance (resolution 2009/26), the Economic and Social Council urged States to pay particular attention to the issue of child justice, taking into account the age, gender, social circumstances and development needs of such children.

62. At its fifty-third session, the Commission on the Status of Women adopted agreed conclusions on the equal sharing of responsibilities between women and men, including caregiving in the context of HIV/AIDS (see E/2009/27). They contained a set of policy recommendations on a broad range of areas, including labour and social policies, the provision of services and infrastructure, caregiving in the context of HIV/AIDS, the elimination of gender stereotypes, data collection and research, and international cooperation. In its discussions on the priority theme and related topics on its agenda, the Commission recognized that gender inequality and discrimination contribute to the continuing imbalance in the division of labour between women and men, and noted the need to change the gender-based division of labour in order to fully integrate women into the formal economy and to ensure women's equal participation in public and political life. The persistence of gender stereotypes and discriminatory attitudes regarding the roles of women and men was also considered to be a significant barrier to achieving equal participation of women in decision-making processes at all levels. In the face of current global challenges, the Commission expressed its deep concern over the negative impact of the global financial and economic crisis, which could hamper progress in achieving the Millennium Development Goals and the implementation of the Beijing Declaration and Platform for Action. At the session, the Commission adopted a number of resolutions, including on its future organization and methods of work, which outlined new priority themes for the period 2010-2014 (Economic and Social Council resolution 2009/15).

IV. Conclusions and recommendations

63. The General Assembly and its subsidiary bodies and the Economic and Social Council and its functional commissions paid attention to gender equality and the empowerment of women and girls across a range of different thematic areas of work. Considerable attention was given to issues linked to women's human rights, violence against women and the role of women in development. Overall, however, gender equality considerations appeared in only a limited number of resolutions of intergovernmental bodies and in only approximately half of the reports of the Secretary-General. As in previous years, despite the recognition of the importance of mainstreaming gender equality considerations, such attention was disproportionately concentrated in development-related agendas and not uniformly addressed across the spectrum of work of the Assembly and the Council.

64. There is a need to improve the explicit inclusion of the goal of gender equality into all the documentation and the work of intergovernmental bodies, to accelerate

the implementation of commitments on gender equality, women's human rights and the empowerment of women. The slow and uneven progress in implementation has direct and serious negative impacts on the lives of women and girls and on the achievement of global goals and commitments across the areas of peace and security, development and human rights. Stronger efforts are required to address persistent gaps and challenges and obstacles to implementation.

65. There is a continued need for institutional development for gender equality and the empowerment of women supported by data and research, adequate and sustainable resources and effective accountability mechanisms. The call for improved statistical and monitoring capacities for the systematic collection and use of sex-disaggregated data and gender-sensitive indicators has been clear and consistent in the work of the General Assembly, the Economic and Social Council and the majority of the Council's functional commissions. The lack of adequate data impedes progress towards gender equality and the empowerment of women, and limits the ability of Member States to improve institutional mechanisms, design better policies and tailor relevant and more effective strategies to address the specific needs and vulnerabilities of their populations. Increased investment in data collection and analysis at the global, regional and national levels is required.

66. Many good practices and recommendations for the further implementation of actions towards gender equality and the empowerment of women have been discussed in the work of intergovernmental bodies, including in connection with the 15-year review of the Beijing Declaration and Platform for Action. One continuing challenge, however, is the capacity of intergovernmental bodies, Governments, United Nations entities and other stakeholders to share expertise, experience and knowledge and scale up good and promising practices in different sectors and areas. The work by the Statistical Commission and the Commission on the Status of Women on indicators on violence against women is a good example of inter-commission exchanges and collaboration. In addition, models for information-sharing and knowledge management, such as the Secretary-General's database on violence against women, could be extended to other gender equality and women's empowerment issues. Enhanced use of tools such as score cards and resource tracking systems like the gender marker can also significantly contribute to more gender-responsive programmes and results at the country level.

67. The year 2010 has provided multiple opportunities for strengthening political commitment and leadership at all levels and across sectors towards the full achievement of internationally agreed goals and commitments on gender equality and the empowerment of women. The Commission on the Status of Women's 15-year review of the implementation of the Beijing Platform for Action and the outcomes of the twenty-third special session of the General Assembly, and the Economic and Social Council's annual ministerial review identified further actions to accelerate progress towards gender equality and the empowerment of women. The high-level Plenary Meeting on the Millennium Development Goals in September 2010 will provide an opportunity to commit to the actions needed to meet the goals by 2015, especially those actions related to gender equality, which underpin the progress of all the Goals. Efforts to systematically integrate gender-equality perspectives into peace and security issues can also be reinforced during the tenth anniversary of Security Council resolution 1325 (2000) in the fall of 2010.

68. The establishment of the United Nations Entity for Gender Equality and the Empowerment of Women, UN Women, by the General Assembly in July 2010, marks an important turning point that will significantly boost the Organization's ability to support and work with Member States in accelerating progress towards achieving the goals of gender equality and the empowerment of women. UN Women will work for the elimination of discrimination against women and girls and the achievement of equality between women and men as partners and beneficiaries of development, human rights, humanitarian action and peace and security.

69. **Taking into account the critical role of intergovernmental bodies in promoting and monitoring progress in the achievement of global commitments on gender equality, the General Assembly may wish to:**

(a) **Strengthen efforts to enhance accountability with respect to the implementation of gender-equality commitments at the international, regional and national levels, including by improved monitoring and reporting on progress in relation to policies, strategies, resource allocations and programmes;**

(b) **Encourage Member States, United Nations entities, international and regional organizations and other relevant actors to prioritize the strengthening of data collection and monitoring capacities, at international, regional and national levels, through multisectoral efforts and partnerships;**

(c) **Request that reports submitted to the General Assembly, the Economic and Social Council and their subsidiary bodies facilitate gender-sensitive policy development, through qualitative gender analysis, sex-disaggregated data and concrete recommendations for further action;**

(d) **Ensure that gender perspectives are mainstreamed in the preparation, implementation and follow-up of all United Nations conferences, summits and high-level meetings, including in documentation, interactive events and outcomes, and such upcoming events as the United Nations Conference on Sustainable Development in 2012 ("Rio plus 20");**

(e) **Encourage the Committees of the General Assembly and the functional commissions of the Economic and Social Council to hold periodic thematic discussions on progress made in mainstreaming gender perspectives into their work.**

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Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Security Council
Sixty-fifth year

Report of the International Tribunal for the Former Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and the members of the Security Council the seventeenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, submitted by the President of the Tribunal in accordance with article 34 of the statute of the Tribunal (see S/25704 and Corr.1, annex) which states that:

> The President of the International Tribunal shall submit an annual report of the International Tribunal to the Security Council and to the General Assembly.

* A/65/150.

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Letter of transmittal

31 July 2010

Excellencies,

I have the honour to submit the seventeenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, dated 31 July 2010, to the General Assembly and the Security Council, pursuant to article 34 of the statute of the International Tribunal.

Please accept, Excellencies, the assurances of my highest consideration.

(*Signed*) Patrick **Robinson**
President

President of the General Assembly
United Nations
New York

President of the Security Council
United Nations
New York

Seventeenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Summary

The seventeenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 covers the period from 1 August 2009 to 31 July 2010.

The Tribunal continued to focus upon the completion of all trials and appeals. The Appeals Chamber delivered three judgements involving six persons, and the Trial Chambers delivered the judgement in *Prosecutor v. Popović et al.*, involving seven accused persons. The Tribunal conducted 10 trials in its three courtrooms. At the close of the reporting period, 14 persons are in appeal proceedings, 18 persons are on trial, and three accused are at the pretrial stage. Two accused — Ratko Mladić and Goran Hadžić — remain at large.

Judge Patrick Robinson (Jamaica) and Judge O-Gon Kwon (Republic of Korea) were re-elected to the positions of President and Vice-President of the Tribunal, respectively, on 26 October 2009. The Registrar, John Hocking, and the Prosecutor, Serge Brammertz, continued to fulfil their duties at the Tribunal.

The Office of the Prosecutor made progress towards the completion of the Tribunal's mandate at both the trial and appellate levels. The Office of the Prosecutor continued to further develop interaction with the authorities of the States of the former Yugoslavia to encourage cooperation with the Tribunal and support domestic war crimes prosecutions.

Under the authority of the President, the Registry continued to play a crucial role in the provision of administrative and judicial support to the Tribunal. The Registrar provided operational support to the Chambers and the Office of the Prosecutor and managed the Tribunal in all administrative areas. The Immediate Office of the Registrar coordinated the work of the various Registry sections and dealt with a vast range of legal, policy, and operational matters, including the Tribunal's downsizing policies. The Communications Service carried out a diverse range of activities with a view to increasing the profile of the Tribunal and bringing its judgements to the relevant communities. The Archives and Records Management Unit established a records management system to ensure that an information security strategy is in place to properly manage the Tribunal's records. The Court Management and Support Services Section supported up to 10 trials, as well as numerous pretrial, contempt, and appeal hearings. The Conference and Language Services Section continued to provide the required interpretation, translation, and court reporting services. The Victims and Witnesses Section facilitated hundreds of witnesses travelling to The Hague to give evidence. The Office for Legal Aid and Detention Matters serviced multiple defence teams in cases in pretrial, trial, and appellate proceedings. The United Nations Detention Unit continued to operate at a high level of activity, serving the judicial process on a daily basis and providing secure custodial care to all detained persons. The Division of Administration

coordinated the preparation of the second performance report for the biennium 2008-2009 and the revised estimates submission for the biennium 2010-2011 to support the revised trial forecast in terms of post and non-post items.

All organs of the Tribunal faced significant challenges in the reporting period in meeting the objectives of the completion strategy due to the devastating impact of staff attrition. In response, the President urged the Security Council to take measures to help it retain its staff. On 29 June 2010, the Security Council adopted resolution 1931 (2010), in which it called upon the United Nations Secretariat and other relevant United Nations bodies to continue to work with the Registrar of the Tribunal in order to find practicable solutions to address this issue as the Tribunal approaches the completion of its work.

To date, the Tribunal has concluded proceedings against 126 of the 161 persons indicted by the Tribunal. The report that follows details the activities of the Tribunal during the reporting period and demonstrates the Tribunal's focus on its goal of completing its proceedings as soon as possible, without sacrificing due process.

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I. Introduction

1. The seventeenth annual report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 outlines the activities of the Tribunal for the period from 1 August 2009 to 31 July 2010.

2. During the reporting period, the Tribunal continued to implement its completion strategy endorsed by the Security Council in resolution 1503 (2003). The Appeals Chamber delivered three judgements involving six persons. The Trial Chambers delivered the judgement in *Prosecutor v. Popović et al.*, involving seven accused persons, and at their peak ran 10 trials in the Tribunal's three courtrooms, taking advantage of interstices in trial schedules. At the close of the reporting period, appeal proceedings are ongoing for 14 persons, 18 are currently on trial, and three accused are at the pretrial stage. Unfortunately, two more accused remain at large: Ratko Mladić and Goran Hadžić. The failure to arrest the remaining two fugitives remains a grave concern to the Tribunal. To date, the Tribunal has concluded proceedings against 126 of the 161 persons indicted by the Tribunal.

3. Judge Patrick Robinson (Jamaica) and Judge O-Gon Kwon (Republic of Korea) were re-elected to the positions of President and Vice-President of the Tribunal, respectively, on 26 October 2009. The Registrar, John Hocking, and the Prosecutor, Serge Brammertz, continued to fulfil their duties at the Tribunal, focusing on the expeditious completion of trial and appellate activities. Measures were taken during the reporting period to reform the Tribunal's procedures in order to maximize efficiency, and the recommendations of the Working Group on Speeding Up Trials were implemented.

4. As part of its completion strategy, the Tribunal assessed its remaining workload and determined the necessity of redeploying resources to the Appeals Chamber. This strategy is contained in the Tribunal's budget for the biennium 2010-2011 and will expedite the work of the Tribunal and save significant resources.

II. Activities involving the entire Tribunal

A. President

5. President Robinson continued to focus his efforts upon the core functions of the Tribunal — trial and appeals — and instituted a number of reforms during the reporting period.

1. Internal reforms

6. During the last reporting period, the President established a working group to assess the procedural and substantive aspects of contempt proceedings and to recommend methods of expediting their adjudication. A result of this initiative was that, on 10 December 2009, the judges adopted a new rule of procedure and evidence — rule 92 quinquies — in order to regulate the admission of evidence in a trial where witnesses have been made unavailable owing to intimidation and bribery.

7. The President reconstituted the Working Group on Speeding Up Trials to undertake a third review of the Tribunal's practices in order to assess whether

further improvements could be implemented in the work of the Chambers. The Working Group submitted its report on 21 May 2010 and recommended a number of reforms to the Tribunal's procedures. On 7 June 2010, the judges adopted the recommendations and decided to integrate them into the ongoing proceedings. One of the adopted recommendations was for Trial Chambers to require parties to have a proper and consistent routine of notice and dissemination of written statements that are tendered in lieu of oral testimony. Another was for Trial Chambers to require parties to submit motions for the admission of evidence in as efficient a manner as possible, to encourage agreement between the parties on uncontested facts, and to facilitate the taking of judicial notice of adjudicated facts. Other adopted recommendations included Trial Chambers dealing with all procedural and administrative matters outside of the courtroom, making greater use of oral rulings in lieu of written decisions, prioritizing translations in order of importance, and avoiding superfluous translations. Finally, at the time when less than six trials are heard simultaneously, Trial Chambers will increase their sitting times in the remaining cases, as more courtroom time becomes available.

2. Capacity-building and legacy

8. The President continued to advance the capacity-building of national jurisdictions, as a priority of the Tribunal's legacy strategy. In February 2010, the Tribunal organized a donor-funded conference that gathered more than 350 participants from the international community and the countries of the former Yugoslavia to discuss aspects of the Tribunal's legacy, particularly in the region. On 1 May, the Tribunal and the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe launched a joint 18-month project funded by the European Union aimed at assisting the national judiciaries of the region in securing their capacity to investigate, prosecute and adjudicate war crimes cases, including a project to translate trial transcripts and research tools into the languages of the region. The Tribunal is also preparing for the establishment of information centres under local ownership in the former Yugoslavia.

3. Diplomatic relations and other representation

9. The President was actively involved in cooperation and outreach activities to secure support for the Tribunal's work and increase its international profile.

10. On 10 September 2009, the President participated in a discussion on the role of regional courts and commissions in the international justice system at the Consultative Conference on International Criminal Justice at United Nations Headquarters in New York. On 23 September, the President spoke at the launch of the report entitled "Supporting the Transition Process: Lessons Learned and Best Practices in Knowledge Transfer". In his speech, the President emphasized that partnerships with the national judiciaries of the region form an integral part of the Tribunal's completion strategy, as well as a key legacy goal.

11. On 8 October, the President addressed the General Assembly regarding the Tribunal's sixteenth annual report (A/64/205-S/2009/394). On 16 October, the President delivered a speech at the opening of the Academic Year of Social Sciences Faculties at the University Roma Tre in Rome. The President discussed the right to a fair trial in international law, with specific reference to the work of the Tribunal.

12. On 19 November, the President, the Prosecutor and the Registrar held a biannual diplomatic briefing, attended by some 70 embassy representatives and members of the diplomatic community in The Hague. The briefing focused on the latest developments at the Tribunal and the progress made towards the implementation of its completion strategy.

13. On 3 December, the President addressed the Security Council regarding the twelfth report of the Tribunal on its completion strategy (S/2009/589).

14. From 25 to 27 January 2010, the President received at the Tribunal the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, Patricia O'Brien. The President, the Vice-President, the Prosecutor and the Registrar met with the Legal Counsel to discuss the progress of trials pending before the Tribunal, the strategy for completion of the Tribunal's mandate, and its plans to preserve its legacy.

15. On 23 February, the President opened the Conference on Assessing the Legacy of the Tribunal. The purpose of the conference was to ensure wide consultation on the key elements of the Tribunal's legacy in the region of the former Yugoslavia and beyond.

16. From 31 May to 11 June, the President, the Prosecutor and the Registrar attended the first Review Conference of the Rome Statute in Kampala, at the invitation of the President of the Assembly of States Parties to the Rome Statute of the International Criminal Court. The President and the Registrar attended a number of meetings, at which they shared their knowledge of and experience with the functioning of an international tribunal and of international criminal proceedings.

17. From 14 to 17 June, the President met with United Nations officials and diplomatic representatives in New York to discuss issues relevant to the work of the Tribunal. Together with the Registrar, the President met with United Nations Headquarters officials, and representatives of the European Union, Germany, Austria, Spain and the United Kingdom of Great Britain and Northern Ireland to discuss staffing and budgetary issues. Of particular significance was the United Nations Controller's interpretation of General Assembly resolution 63/256, by which the Assembly appears to authorize the Tribunal to offer contracts to staff in line with the prevailing trial schedules. This measure would have assisted the Tribunal in retaining its highly experienced staff, but the Tribunal had been told by the budgetary authorities at United Nations Headquarters that the Tribunal cannot offer contracts to staff that are not tied to approved budgetary submissions. The Tribunal hopes that the adoption of Security Council resolution 1931 (2010) will motivate relevant United Nations bodies to take immediate action to adopt appropriate measures to assist the Tribunal in retaining its qualified staff. If measures are not taken now, experienced staff will continue to leave the Tribunal and the completion strategy will be jeopardized.

18. In June 2010, the President, the Prosecutor and the Registrar also participated in a meeting of the Security Council's Informal Working Group on International Tribunals. On 18 June, the President addressed the Security Council regarding the thirteenth report of the Tribunal on its completion strategy (S/2010/270).

19. From 5 to 7 July, the President conducted a mission to Croatia at the invitation of the country's Supreme Court, during which he met with the Chief Justice of the Croatian Supreme Court and conducted a round-table discussion with other judges. He also met with the President of Croatia, the Minister of Justice, the Head of the Ministry of Justice's Office for Cooperation with International Criminal Courts, and other representatives of the international community and non-governmental sector. The visit was part of the President's continuing efforts to intensify knowledge-sharing and cooperation with local judiciaries as a key part of the Tribunal's legacy.

4. Judicial activity

20. By virtue of the powers vested in him by the statute, the rules, and the practice directions of the Tribunal, the President issued numerous orders assigning cases to Chambers and reviewed several decisions of the Registrar. The President also granted five requests for pardon, commutation of sentence, and early release of persons convicted by the Tribunal, and rejected four such applications.

B. Bureau

21. Pursuant to rule 23 of the rules, the Bureau is composed of the President, the Vice-President and the presiding judges of the Trial Chambers. The President consulted the Bureau on issues relating to the functioning of the Tribunal; the amendment of practice directions; and requests for pardon, commutation, and early release of convicted persons serving their sentences.

C. Coordination Council

22. Pursuant to rule 23 bis of the rules, the Coordination Council consists of the President, the Prosecutor and the Registrar. During the reporting period, the Council met regularly to discuss, inter alia, the Tribunal's completion strategy, staff retention, translation priorities, legacy activities, communications policy, and the work of the Security Council's Informal Working Group on International Tribunals with respect to the Tribunal's residual mechanism.

D. Plenary sessions

23. During the reporting period, the judges held one regular plenary session and three extraordinary plenary sessions. At the extraordinary plenary session of 26 October 2009, Judge Patrick Robinson (Jamaica) and Judge O-Gon Kwon (Republic of Korea) were re-elected to the positions of President and Vice-President of the Tribunal, respectively. At the 38th regular plenary session, held on 10 December 2009, the judges adopted a new rule of procedure and evidence — rule 92 quinquies — in order to regulate the admission of evidence in a trial where witnesses have been made unavailable owing to intimidation and bribery. At the extraordinary plenary session of 18 February 2010, the judges discussed the issue of the declassification of the Tribunal's confidential court records, pursuant to the request of the Security Council following the report of the Secretary-General on the

residual mechanism, of 21 May 2009.[1] At the extraordinary plenary session of 7 June 2010, the judges adopted the recommendations of the Working Group on Speeding Up Trials.

E. Rules Committee

24. The judicial membership of the Rules Committee comprises Judge Carmel Agius (Chair), President Patrick Robinson, Vice-President O-Gon Kwon, and Judges Kevin Parker, Alphons Orie and Christoph Flügge. The non-voting members include the Prosecutor, the Registrar, and a representative of the Association of Defence Counsel. During the reporting period, the Rules Committee met seven times on the following dates to discuss proposals to the rules and make recommendations to the judges: 25 September, 10 November and 14 December 2009 and 21 and 26 January, 9 March and 7 June 2010.

F. Residual mechanism

25. On 21 May 2009, the Secretary-General issued his report on the residual mechanism (S/2009/258) and, on 8 October 2009, the Secretary-General advised the Tribunal of the Security Council's endorsement of the recommendations therein and requested the Tribunal to comply with the recommendation in paragraph 259 (m) and to report upon the Tribunal's implementation of the tasks identified in paragraph 259 (l) pertaining to the residual mechanism. In its biannual reports to the Security Council (S/2009/589 and S/2010/270), the Tribunal reported upon its implementation of each of these recommendations. Moreover, the Tribunal continued to respond diligently to requests for information from the Office of the Legal Counsel with respect to the development of a residual mechanism, as the Tribunal draws closer to the completion of its mandate.

III. Activity of Chambers

A. Composition of the Chambers

26. Today, the Tribunal has 27 judges from 26 countries. The Chambers are composed of 14 permanent judges, two permanent judges from the International Criminal Tribunal for Rwanda serving in the Appeals Chamber, and 11 ad litem judges.

27. The permanent judges are Patrick Robinson (President, Jamaica), O-Gon Kwon (Vice-President, Republic of Korea), Kevin Parker (Presiding, Australia), Alphons Orie (Presiding, Netherlands), Fausto Pocar (Italy), Liu Daqun (China), Theodor Meron (United States of America), Carmel Agius (Malta), Jean-Claude Antonetti (France), Bakone Justice Moloto (South Africa), Christoph Flügge (Germany), Burton Hall (Bahamas), Howard Morrison (United Kingdom) and

[1] Report of the Secretary-General on the administrative and budgetary aspects of the options for possible locations for the archives of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and the seat of the residual mechanism(s) for the Tribunals (S/2009/258).

Guy Delvoie (Belgium). The permanent judges from the International Criminal Tribunal for Rwanda serving in the Appeals Chamber are Mehmet Güney (Turkey) and Andrésia Vaz (Senegal). Judges Guy Delvoie (Belgium), Howard Morrison (United Kingdom) and Burton Hall (Bahamas) were appointed during the reporting period to replace judges Christine Van Den Wyngaert (Belgium), Iain Bonomy (United Kingdom) and Mohamed Shahabuddeen (Guyana), who resigned from the Tribunal.

28. During the reporting period, the following have served as ad litem judges: Janet Nosworthy (Jamaica), Árpád Prandler (Hungary), Stefan Trechsel (Switzerland), Antoine Kesia-Mbe Mindua (Democratic Republic of the Congo), Kimberly Prost (Canada), Ole Bjørn Støle (Norway), Frederik Harhoff (Denmark), Flavia Lattanzi (Italy), Pedro David (Argentina), Michèle Picard (France), Uldis Ķinis (Latvia), Elizabeth Gwaunza (Zimbabwe), Melville Baird (Trinidad and Tobago) and Prisca Matimba Nyambe (Zambia).

29. The following judges served in the Trial Chambers during the reporting period: Judges Kwon (Presiding), Parker (Presiding), Orie (Presiding), Agius (Presiding), Antonetti (Presiding), Moloto (Presiding), Flügge (Presiding), Hall (Presiding), Morrison, Delvoie, Nosworthy, Prandler, Trechsel, Mindua, Prost, Støle, Harhoff, Lattanzi, David, Picard, Ķinis, Gwaunza, Baird and Nyambe.

30. The Appeals Chamber is composed of judges Robinson (Presiding), Güney, Pocar, Liu, Vaz, Meron and Agius.

B. Principal activity of the Trial Chambers

1. Trial Chamber I

(a) Pretrial

31. There are no pretrial cases pending before Trial Chamber I.

(b) Trial

Gotovina, Čermak, and Markač

32. The accused are charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Croatia in 1995. The Trial Chamber is composed of judges Orie (presiding), Ķinis and Gwaunza. The trial commenced on 10 March 2008. The hearing of evidence has been concluded, final briefs were submitted on 16 July 2010, and final oral arguments will be heard at the end of August or the beginning of September 2010.

Perišić

33. Momčilo Perišić is charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Sarajevo and Srebrenica (Bosnia and Herzegovina), as well as in Zagreb (Croatia) between August 1993 and November 1995. The Trial Chamber is composed of judges Moloto (presiding), David and Picard. The trial commenced on 2 October 2008. The prosecution concluded its case on 25 January 2010 and the defence started its case on 22 February 2010.

J. Stanišić and Simatović

34. Jovica Stanišić and Franko Simatović are charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Croatia and Bosnia and Herzegovina between April 1991 and December 1995. The Trial Chamber is composed of judges Orie (presiding), Picard and Gwaunza. The trial commenced on 28 April 2008, but was adjourned by order of the Appeals Chamber of 16 May 2008 because of the health of Stanišić. The trial recommenced on 2 June 2009 and is currently in the prosecution case-in-chief.

(c) Contempt

Hartmann

35. Florence Hartmann was charged with contempt of the Tribunal for disclosing two confidential decisions of the Appeals Chamber. The Trial Chamber was composed of judges Moloto (presiding), Güney and Liu. The judgement was issued on 14 September 2009, and the accused was convicted and sentenced to pay a fine of €7,000.

2. Trial Chamber II

(a) Pretrial

Šešelj

36. On 3 February 2010, the Trial Chamber issued an order in lieu of an indictment charging Vojislav Šešelj with contempt for having disclosed in a book information that may identify 11 protected witnesses in violation of orders of a Chamber. An initial appearance and a further initial appearance were held on 29 April 2010 and 6 May 2010, respectively. At the further initial appearance, a plea of not guilty was entered on the accused's behalf. The case is currently being readied for trial.

(b) Trial

Popović et al.

37. Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin and Vinko Pandurević were charged with genocide, conspiracy to commit genocide, crimes against humanity, and a violation of the laws or customs of war. Radivoje Miletić and Milan Gvero were charged with crimes against humanity and a violation of the laws or customs of war. The crimes charged were allegedly committed in Bosnia and Herzegovina in 1995. The Trial Chamber composed of judges Agius (presiding), Kwon, Prost and Støle (reserve) issued its judgement in the case on 10 June 2010. Each of the seven accused was found guilty on certain of the charges. Vujadin Popović and Ljubiša Beara were each sentenced to life imprisonment; Drago Nikolić was sentenced to 35 years' imprisonment; Radivoje Miletić to 19 years' imprisonment; Ljubomir Borovčanin to 17 years' imprisonment; Vinko Pandurević to 13 years' imprisonment; and Milan Gvero to 5 years' imprisonment.

Đorđević

38. Vlastimir Đorđević is charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Kosovo in 1999. The accused was arrested on 17 June 2007, and the trial commenced on 27 January 2009. The Trial Chamber is composed of judges Parker (presiding), Flügge and Baird. The prosecution closed its case on 28 October 2009. The defence case opened on 30 November 2009 and was completed on 20 May 2010. Final trial briefs were filed on 30 June 2010, and closing arguments were heard on 13 and 14 July. The case is currently at the stage of judgement drafting.

M. Stanišić and Župljanin

39. Mićo Stanišić and Stojan Župljanin are both charged with 10 counts of crimes against humanity and violations of the laws or customs of war allegedly committed from April to December 1992 in Bosnia and Herzegovina. The Trial Chamber is composed of judges Hall (presiding), Delvoie and Harhoff. The trial commenced on 14 September 2009, and the case is currently hearing the prosecution's case-in-chief.

Tolimir

40. Zdravko Tolimir is charged with genocide, conspiracy to commit genocide, crimes against humanity, and a violation of the laws or customs of war allegedly committed in Bosnia and Herzegovina in 1995. The Trial Chamber is composed of judges Flügge (presiding), Mindua and Nyambe. The trial commenced on 26 February 2010, and the case is currently hearing the prosecution's case-in-chief.

(c) Contempt

Šešelj

41. On 21 January 2009, Trial Chamber II issued an order in lieu of indictment charging Vojislav Šešelj with contempt for having disclosed, in a book authored by him, confidential information in violation of orders granting protective measures to three witnesses, as well as by disclosing excerpts of one of their written statements. The trial was held on 29 May 2009. In a judgement delivered on 24 July 2009, Šešelj was found guilty of contempt of the Tribunal and sentenced to 15 months in prison.

3. Trial Chamber III

(a) Pretrial

42. There are no pretrial cases pending before Trial Chamber III.

(b) Trial

Karadžić

43. Radovan Karadžić is charged under 11 counts with genocide, crimes against humanity, and violations of the laws or customs of war allegedly committed in Bosnia and Herzegovina between 1992 and 1995. The Trial Chamber is composed of judges Kwon (presiding), Morrison, Baird and Lattanzi (reserve). The trial

commenced on 26 October 2009, and the case is currently hearing the prosecution's case-in-chief.

Šešelj

44. Vojislav Šešelj is charged with crimes against humanity and violations of the laws or customs of war allegedly committed in Croatia, Bosnia and Herzegovina and Vojvodina (Serbia) between August 1991 and September 1993. The Trial Chamber is composed of judges Antonetti (presiding), Harhoff and Lattanzi. The trial started anew on 7 November 2007. In its decision of 11 February 2009, the Trial Chamber adjourned, at the prosecution's request, the hearing of certain witnesses. The trial resumed on 23 November 2009. The prosecution's case is anticipated to conclude in September 2010, and the Chamber expects to issue any decision on an anticipated motion for judgement of acquittal in December 2010.

Prlić et al.

45. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić are charged with grave breaches of the Geneva Conventions, crimes against humanity, and violations of the laws or customs of war allegedly committed from November 1991 to April 1994 in Bosnia and Herzegovina. The Trial Chamber is composed of judges Antonetti (presiding), Prandler, Trechsel and Mindua (reserve). The trial commenced on 26 April 2006, and the defence case was completed in May 2010. The Chamber is currently seized of a prosecution motion to reopen its case-in-chief.

(c) Contempt

Tabaković

46. The accused was charged with contempt of the Tribunal for allegedly providing a false statement in exchange for payment. The Trial Chamber was composed of judges Parker (presiding), Hall and Morrison. Tabaković entered a plea of guilty, and judgement was rendered on 15 March 2010, Tabaković being sentenced to three months of imprisonment.

4. Rule 11 bis Referral Bench

47. The rule 11 bis Referral Bench is composed of judges Orie (presiding), Kwon and Parker. There was a request by Gojko Janković to revoke the previous rule 11 bis referral decision and return his case to the Tribunal. The request was denied on 21 June 2010.

5. Rule 75 (H) Bench

48. The bench constituted to decide requests for confidential information for use in national proceedings under rule 75 (H) is composed of judges Moloto (presiding), Flügge and Morrison. The rule 75 (H) Bench continued to function in an efficient manner, rendering 12 decisions during the reporting period.

C. Principal activity of the Appeals Chamber

Interlocutory appeals

49. Twenty decisions on interlocutory appeals were issued in the following cases: *Karadžić* (5); *Gotovina et al.* (5); *Popović et al.* (3); *Prlić et al.* (5); *Tolimir* (1); and *Stanišić and Simatović* (1). Three interlocutory appeals are currently pending in the following cases: *Gotovina et al.* (1); *Prlić et al.* (1); and *Šešelj* (1).

Contempt appeals

50. One contempt appeal judgement was issued in the *Šešelj* case. One contempt appeal is currently pending in the *Hartmann* case.

Appeals on the merits

51. The Appeals Chamber rendered three final judgements in the cases of *Dragomir Milošević, Boškoski and Tarčulovski*, and *Haradinaj et al.*

52. On 12 November 2009, the Appeals Chamber granted D. Milošević's appeal in part and reduced his sentence from 33 to 29 years' imprisonment. The prosecution's sole ground of appeal, which requested that D. Milošević be sentenced to life imprisonment, was dismissed in its entirety.

53. On 19 May 2010, the Appeals Chamber dismissed all seven grounds of Johan Tarčulovski's appeal and affirmed the 12-year sentence of imprisonment handed down at trial. The prosecution's appeal regarding the acquittal of Ljube Boškoski was dismissed.

54. On 19 July 2010, the Appeals Chamber, by majority, granted the prosecution's request for a reversal of the Trial Chamber's decision to acquit Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj on certain counts in the indictment. The Appeals Chamber therefore ordered a partial re-trial of the case.

55. There is one appeal — *Šainović et al.* — currently pending before the Appeals Chamber from the previous reporting period, and one new appeal from judgement was filed before the Appeals Chamber in the *Lukić and Lukić* case. Pre-appeal activity is ongoing in both of these cases.

56. Rasim Delić passed away on 16 April 2010, while on provisional release and while the appeals filed by both parties were being decided. On 29 June 2010, the Appeals Chamber denied a defence motion for continuation of the appeal proceedings, and the proceedings were terminated by the Appeals Chamber's decision of the same date.

57. A total of 102 pre-appeal decisions and orders were issued during the reporting period.

Review

58. One review is currently pending in the *Šljivančanin* case, and the Appeals Chamber conducted a review-related hearing in that case.

Other appeals

59. The Appeals Chamber rendered four decisions on other appeals in *Mrkšić and Šljivančanin* (2), *Perišić* (1) and *Prlić et al.* (1).

IV. Activity of the Office of the Prosecutor

A. Completion of trials and appeals

60. The Prosecutor's foremost priority continues to be the conclusion of all remaining trials and appeals in accordance with the Tribunal's completion strategy. During the reporting period, significant progress was made. The remaining nine trials are currently ongoing in the Tribunal's three courtrooms, with no more cases in pretrial. This is an important milestone for the Tribunal.

61. Judgement in *Popović et al.*, the second multi-accused leadership case, was rendered on 10 June 2010. On 14 July 2010, the *Đorđević* case closed, while *Gotovina et al.* is close to completion. *Prlić et al.*, the last multi-accused case, and *Perišić* will finish with the evidence phase in the next reporting period. The evidence phase of the *Karadžić*, *Šešelj*, *Stanišić and Simatović*, *Stanišić and Župljanin*, and *Tolimir* trials will continue into 2011.

62. Appeal judgements were rendered in *Dragomir Milošević* and *Boškoski and Tarčulovski* during the reporting period. On 29 June 2010, the Appeals Chamber terminated the *Delić* appellate proceedings, given the death of the accused. The trial judgement is therefore final. The appeal judgement in *Haradinaj et al.* was rendered on 21 July 2010, and a partial re-trial ordered. In the next reporting period, the *Lukić and Lukić* and *Šainović et al.* appeals will be argued.

63. Two fugitives — Ratko Mladić and Goran Hadžić — remain at large. On 15 October 2009, the Office of the Prosecutor severed the *Mladić* indictment from the *Karadžić* indictment, and streamlined it. The updated indictment, which was presented to the confirming judge on 10 May 2010, will allow the case against Mladić to proceed more efficiently when he is arrested and tried.

64. The Office of the Prosecutor is working at full capacity to prosecute trials and appeals efficiently and expeditiously. Emphasis is given to presenting evidence through witness statements and documents instead of viva voce testimony. Unfortunately, delays in several trials could not be avoided. Difficulties with witness availability, the unpredictable length of defence cases, and resource constraints have affected the speed of trials. Several cases were adjourned to allow prosecution and defence teams time to translate and analyse a large volume of new and important evidence from Serbia.

B. Cooperation

1. International cooperation

65. The Office of the Prosecutor continues to seek the full cooperation of States to fulfil its mandate. The cooperation of the States of the former Yugoslavia remains vital in the areas of (a) access to archives, documents and witnesses; (b) the

protection of witnesses; and (c) efforts to locate, arrest and transfer the two remaining fugitives (including taking measures against those who support them).

2. Cooperation of Serbia

66. Over the reporting period, the Office of the Prosecutor required Serbia's support in ongoing trials and appeals. The Office of the Prosecutor also sought Serbia's assistance in the critical matter of apprehending the two fugitives.

67. Serbia's responses to the Office of the Prosecutor's requests for access to documents, archives, and witnesses have generally been timely and adequate. As trials and appeals progress, the Office of the Prosecutor encourages Serbia to continue to provide unhindered access to its documents and archives. The Serbian authorities have also continued to facilitate the appearance of witnesses before the Tribunal, including serving summonses on individuals. The Serbian Office of the War Crimes Prosecutor and law enforcement bodies acted promptly in response to concerns communicated by the Office of the Prosecutor about the alleged intimidation and threatening of prosecution witnesses.

68. On 23 February 2010, Serbian authorities conducted a search of the apartment of Ratko Mladić's wife. Items including 18 notebooks containing Ratko Mladić's handwritten wartime notes, and associated tapes, were seized. The notebooks contain over 3,000 handwritten pages. The Government of Serbia provided the prosecution with scanned images of the Mladić notebooks in March 2010, and delivered the original notebooks and tapes early in May 2010. The notebooks contain highly valuable information, which is currently being submitted as evidence in a number of cases.

69. The most critical outstanding aspect of Serbia's assistance to the Office of the Prosecutor remains the apprehension of the two fugitives.

70. Throughout the reporting period, the Serbian agencies in charge of locating and arresting the fugitives regularly apprised the Office of the Prosecutor of their work. Their briefings covered the scope and nature of measures taken, investigative avenues pursued, and operations conducted. Despite the Office of the Prosecutor's hope that the operational services' efforts would produce additional positive outcomes, few tangible results have been achieved. After carefully examining the operational activities conducted, the Office of the Prosecutor strongly recommended an in-depth review of the strategies employed. The Office of the Prosecutor asked Serbian authorities to expand search efforts by broadening their investigations, intensifying search operations, and increasing their operational capacity. Decisive and intensified action by the operational services and political authorities is critical for obtaining the arrest of the two fugitives.

71. On 14 June 2010, the Prosecutor expressed these concerns at the Foreign Affairs Council of the European Union. The support of the international community, in particular the European Union, in securing the cooperation of States will remain essential in the future.

3. Cooperation of Croatia

72. Croatia has been generally responsive to the needs of the Office of the Prosecutor. However, the prosecution's long-standing request for important military documents relating to Operation Storm in 1995 remains outstanding.

73. The Government of Croatia created an inter-agency Task Force in October 2009 to examine concerns communicated by the Office of the Prosecutor about identified shortcomings in the administrative investigation of the missing military documents and to locate, or account for, those records. The Task Force has since submitted seven reports to the Office of the Prosecutor. The Office of the Prosecutor noted a general improvement in the quality of Croatia's administrative investigation, in terms of the manner in which interviews are conducted. However, the investigation failed to provide a full account of the whereabouts of the requested documents. None of the missing documents has yet been provided.

4. Cooperation of Bosnia and Herzegovina

74. The authorities of Bosnia and Herzegovina continued to respond adequately to requests for assistance regarding documents and access to government archives. The authorities also continued to assist by facilitating the appearance of witnesses before the Tribunal. The Office of the Prosecutor encourages the authorities of Bosnia and Herzegovina to continue taking measures against those supporting fugitives.

75. The Office of the Prosecutor is concerned that Radovan Stanković, who was indicted by the Tribunal for crimes against humanity and war crimes, including rape, remains at large. The Tribunal transferred Stanković to Bosnia and Herzegovina in May 2005, pursuant to rule 11 bis of the rules. He escaped from prison while serving a 20-year sentence in Foča. Although the Court of Bosnia and Herzegovina has convicted three persons for assisting Stanković's escape, the Office of the Prosecutor encourages the authorities of Bosnia and Herzegovina, as well as neighbouring States, to take all necessary measures to apprehend him.

76. The Office of the Prosecutor continued to support the ongoing prosecution of war crimes cases in Bosnia and Herzegovina and, in particular, the work of the State Prosecutor and the Special Department for War Crimes. Their offices prosecute rule 11 bis cases and receive investigative material transferred by the Office of the Prosecutor. The Prosecutor welcomes the decision of December 2009 to extend the mandates of international personnel and support staff, but regrets that the delays in extending mandates have had a negative impact on the work of the Special Department for War Crimes.

77. Throughout the reporting period, political figures made statements supporting individuals convicted of violations of international humanitarian law, and denying the existence of judicially confirmed crimes. Such statements are unacceptable and damaging, and directly affect cooperation with the Tribunal. They discourage witnesses from giving evidence, and undermine efforts aimed at reconciling and stabilizing the region.

5. Cooperation of other States and organizations

78. The Office of the Prosecutor relies upon States and international organizations to provide documents, information and witnesses for trials and appeals. The international community's assistance with witness protection and, when necessary, witness relocation, is also essential.

79. The Office of the Prosecutor appreciates the support of States and of international and regional organizations such as the European Union, the Organization for Security and Cooperation in Europe, the Council of Europe, and

non-governmental organizations, including those active in the former Yugoslavia. This support will remain crucial.

C. Transfer of cases and investigative files

80. All rule 11 bis cases have been transferred to the region. The Tribunal continues to monitor their progress. Five of the six cases transferred to Bosnia and Herzegovina have concluded with final decisions, while the one case transferred to Croatia has concluded. The *Kovačević* proceedings transferred to Serbia remain suspended, pending a determination of the accused's fitness to stand trial.

81. The Office of the Prosecutor completed the transfer of all investigative dossiers to regional authorities late in 2009. Seventeen case files with investigative material on 43 suspects were transferred to the prosecutors' offices in Bosnia and Herzegovina, Croatia and Serbia. The Office of the Prosecutor provided comprehensive follow-up assistance, and facilitated access to evidence available in The Hague.

82. Throughout the reporting period, the Office of the Prosecutor regularly received requests for assistance from States and international organizations involved in war crimes cases. A number of these requests were complex, and required considerable research and attention. Many requests were submitted by national judicial authorities throughout the former Yugoslavia.

D. Supporting national prosecutions

83. The Office of the Prosecutor has continued to strengthen relations with its regional counterparts by way of a "liaison prosecutors" project funded by the European Union. In June 2009, three prosecutors from the region (one from Bosnia and Herzegovina, one from Croatia, and one from Serbia) began working as liaison prosecutors within the Office of the Prosecutor. Although they work on their own cases, the liaison prosecutors consult with prosecution experts and other personnel on related cases and general issues. The liaison prosecutors also act as contact points for other national prosecutors who are working on war crimes files.

84. Cooperation in judicial matters among the States of the former Yugoslavia is critical to the fulfilment of the Tribunal's mandate. Despite some improvements over the past year, legal obstacles to cooperation still exist. This situation threatens the successful investigation and prosecution of war crimes cases. The Office of the Prosecutor actively supports the development of mechanisms to strengthen regional cooperation. To this end, it engages in ongoing dialogue with its counterparts throughout the former Yugoslavia, and supports various training, best practices, and information exchange initiatives.

V. Activity of the Registry

85. During the reporting period, the Registry continued to discharge its statutory responsibilities by providing operational support to the Chambers and the Office of the Prosecutor, administering the Tribunal, and acting as its channel of

communication.[2] While his main areas of responsibility remained unchanged, the Registrar was confronted with new challenges and priorities, such as the downsizing of the Tribunal's staff and its legacy. He therefore decided to merge sections and to redistribute functions within the Registry in order to streamline their operations and achieve increased efficiency, in line with the completion strategy.

A. Office of the Registrar

86. The Immediate Office of the Registrar now includes the Deputy Registrar and a Chief of Office. In addition to coordinating the work of the various Registry sections described below, the Immediate Office of the Registrar handled a vast range of legal, policy, and operational matters, such as drafting and implementing the Tribunal's downsizing policies. Focused efforts were also deployed to retain staff to complete the Tribunal's mandate, to assist staff in the pursuit of their careers, to prepare the Tribunal's records for archiving, and to anticipate the transition from a full-fledged court to a residual mechanism.

87. The Communications Service — which falls under the Registrar's supervision and which is composed of a Media, Outreach and Web Section and a Library, Publications, Tribunet and Visits Section — managed major public events, such as the beginning of the trial of Radovan Karadžić, which aroused increased interest on the part of the media, academics and members of the general public. The Tribunal's outreach programme, which marked its tenth anniversary at the end of 2009, continued to raise awareness of the work of the Tribunal and to cement the Tribunal's legacy throughout the region. This was achieved through activities such as the coordination of more than 20 visits with more than 400 visitors from the region to The Hague and the participation at some 20 conferences and events across the region; one of the programme's highlights was a round of presentations in 15 Kosovo high schools for more than 350 students. The Tribunal's website was further developed as an information and legacy tool through the inclusion of a number of new features and the ongoing translation of existing and new material into Bosnian/Croatian/Serbian and French. The Library, Publications, Tribunet and Visits Section welcomed an all-time high number of visitors (more than 7,500) and further developed the internal communication portal Tribunet as a reference platform on all issues related to the completion strategy. In order to increase the impact of the internal and external communication policies, with a renewed focus on outreach, the Registry will revamp the communication structures and policies during the upcoming period.

B. Judicial support services sections

88. In the reporting period, the Court Management and Support Services Section supported 10 first instance trials, 6 appeals, and 5 contempt cases. It provided Court Officer support for 16 videoconference links and assisted with seven rule 92 bis missions. The Section also provided support through its *Pro Se* Legal Liaison Officers for three self-representing accused, facilitating solutions to issues arising in the course of the proceedings. During this period, the Court Records Assistants,

[2] Article 17 (1) of the statute of the Tribunal and rule 33 (A) of the Rules of Procedure and Evidence.

Court Officers and Court Ushers processed 7,645 filings submitted by parties and others in proceedings before the Tribunal.

89. In September 2009, the Archives and Records Management Unit was transferred under the operational responsibility of the Court Management and Support Services Section. Since then, the focus of the Unit has been to establish a records management system consistent with the United Nations Archives and Records Management System and to ensure that an information security strategy is in place to properly manage the Tribunal's records. In addition, during the reporting period, the Tribunal finalized a contract for the digitization of more than 60,000 hours of audio-visual records of its proceedings, and the project is well under way.

90. The Conference and Language Services Section continued to provide interpretation, translation, and court reporting services for all the organs of the Tribunal. The Translation Units translated approximately 60,000 pages into English, French, Bosnian/Croatian/Serbian, Albanian and Macedonian, and work on several lengthy documents is ongoing. The Interpretation Unit registered close to 6,000 conference interpreter days. The Court Reporting Services produced over 100,000 pages of transcript. Interpretation services were also provided for official meetings, witness proofing sessions, and missions away from the seat of the Tribunal, including in the region.

91. The Victims and Witnesses Section consists of three main units. The Section's Operations and Support Units facilitated 594 witnesses, and accompanying support persons, travelling to The Hague to give evidence. The Protection Unit coordinated professional responses to an increased number of threats to witnesses before, during and after their appearance at the Tribunal; when needed, the Protection Unit worked to relocate protected witnesses.

92. The Office for Legal Aid and Detention Matters serviced over 480 defence team members assigned or appointed to 40 accused in 17 cases in pretrial, trial and appellate proceedings. It also provided tailored assistance to self-represented accused, developing specific policies in conjunction with the *Pro Se* Legal Liaison Office and the United Nations Detention Unit. The Office facilitated legal representation for suspects during interviews with the prosecution, as well as for convicted persons or witnesses detained at the Detention Unit. The Office continued to manage the enforcement of sentences of persons convicted by the Tribunal, including transfer of convicted persons to States to serve their sentences, liaising with the various inspecting bodies regarding conditions of detention, and assisting the Office of the President with applications for pardon, commutation of sentence and early release. Finally, the Office for Legal Aid and Detention Matters supported the defence teams by expanding and improving the quality of information technology facilities available to them.

93. The United Nations Detention Unit continued to operate at a high level of activity, serving the judicial process on a daily basis for the accused in the trial phase and providing secure custodial care to all detained persons: the increase in the number of detainees on appeal has required considerable management because detainees are less occupied with court proceedings and become more concerned with their custodial situation. Additional challenges included an aging detainee population (average age over 58 years), which has resulted in increased, complex medical and health-care issues; a large number of requests for provisional releases of various durations; and the facilitation of additional needs of several self-

representing accused, detained witnesses, and detainees charged with contempt of the Tribunal.

C. Division of Administration

94. The General Assembly, having considered the reports of the Secretary-General and the Advisory Committee on Administrative and Budgetary Questions on revised budgetary estimates, decided to appropriate to the Special Account for the Tribunal an amount of $290,285,500 gross ($268,265,300 net) for the biennium 2010-2011 (resolution 64/240). During the biennium 2010-2011, extrabudgetary resources are estimated at $2,086,000, to be utilized for a variety of Tribunal activities. As at 15 June 2010, cash donations of approximately $47.4 million had been received for the Voluntary Fund to support the activities of the Tribunal. For the period from 15 June 2009 to 15 June 2010, the Tribunal received $1,788,900 in voluntary cash contributions.

95. The Division of Administration was actively engaged in the implementation of the downsizing process and comparative review process, as designed in consultation with staff representatives. The Division was also responsible for coordinating the preparation of the second performance report for the biennium 2008-2009 and the submission of the revised estimates for the biennium 2010-2011 to support the revised trial forecast in terms of post and non-post items. In further preparation for the downsizing and eventual closure of the Tribunal, the Division started drafting the liquidation plans for the offices and prepared a space allocation master plan in order to reallocate and maximize the use of space at all times during the downsizing.

96. An asset disposal plan was drafted and forwarded to the Property Survey Board at United Nations Headquarters for approval in order to facilitate a more efficient and timely write-off and final disposal of assets.

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Item 65 (a) of the provisional agenda*
Promotion and protection of the rights of children

Status of the Convention on the Rights of the Child

Report of the Secretary-General

Summary

The General Assembly, by its resolution 44/25, adopted the Convention on the Rights of the Child. As at 1 July 2009, the Convention had been ratified or acceded to by 193 States. By its resolution 54/263, the Assembly adopted two Optional Protocols to the Convention. As at 1 July 2010, the Optional Protocol on the involvement of children in armed conflict had been ratified by 132 States and the Optional Protocol on the sale of children, child prostitution and child pornography had been ratified by 137 States.

Pursuant to resolution 64/146, the implementation of child rights in early childhood is the focus of section IV of the present report, which highlights roles and responsibilities at different levels for the fulfilment in early childhood of the rights to survival, development, protection and participation.

* A/65/150.

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I. Introduction

1. In its resolution 64/146, the General Assembly requested the Secretary-General to submit to it at its sixty-fifth session a report on the status of the Convention on the Rights of the Child, with a focus on implementing child rights in early childhood. The present report is submitted in accordance with that request.

II. Status of the Convention on the Rights of the Child

2. As at 1 July 2010, the Convention on the Rights of the Child[1] had been ratified or acceded to by 193 States, and two States had signed the Convention.[2]

3. As at 1 July 2010, the Optional Protocol on the involvement of children in armed conflict had been ratified by 132 States, and the Optional Protocol on the sale of children, child prostitution and child pornography had been ratified by 137 States.[2]

III. Implementation of the Convention on the Rights of the Child

4. During the reporting period, the Committee on the Rights of the Child held its fifty-second to fifty-fourth sessions at the United Nations Office at Geneva, from 14 September to 2 October 2009, from 11 to 29 January 2010 and from 25 May to 11 June 2010.

5. The Chair of the Committee will present her oral report to the General Assembly at its sixty-fifth session, addressing major issues related to the work of the Committee during the past year. The Chair will also provide information on the reduction of the backlog of reports during 2010, when the Committee met in two parallel chambers, pursuant to resolution 63/244.

IV. Implementing child rights in early childhood

A. Human rights and young children

6. The Convention on the Rights of the Child defines a child as "every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier" (art. 1). Young children are therefore entitled to all of the rights enshrined in the Convention and, as noted by the Committee on the Rights of the Child in its general comment No. 7, "Implementing child rights in early childhood" (2005), to special protection measures and the progressive exercise of their rights in accordance with their evolving capacity. The principles of universality, indivisibility and interdependence of all human rights apply to early childhood, as to later phases of childhood. In the same way, the Convention's general principles of non-discrimination, best interests of the child, rights to life, survival and development, and the right of the child to be heard apply equally to

[1] United Nations, *Treaty Series*, vol. 1577, No. 27531.

[2] See www.ohchr.org.

young children as they do to older children. The Convention makes clear the obligation to respect all children as active members of families, communities and societies, with their own specific needs, interests and points of view.

7. Early childhood, which is defined in general comment No. 7 as the period below the age of 8 years, is a period of survival, growth and development, which includes crucial processes shaping the human brain and influencing a range of health and social outcomes throughout life. The imperative need to realize rights during early childhood is supported by scientific evidence and well-evaluated strategies and programmes.[3]

8. Young children are active participants in the realization of their rights. At birth, they seek out responsive care and nurturance from those around them and communicate their feelings, well before they are able to express views through language. The quality of their earliest relationships and care is crucially important for their survival and development.

9. States have an obligation to ensure that the rights of the child are fully implemented. However, the exercise of rights in early childhood is strongly contingent upon the capacities and resources available to the major caregivers of the young child. This includes the full range of those who take responsibility for their care, education and development, such as the child's parents or, where applicable, the members of the extended family or community as provided for by local custom; legal guardians or other persons legally responsible for the child; and childcare professionals, as well as, later, the teachers and other community members. The ability of these individuals to care for the child is in turn strongly affected by their enjoyment of human rights, including economic circumstances; their access to basic information and services; the level of political stability in the community, region or country; and the laws and policies that have an impact on their roles. Recognizing these interdependencies is necessary in order to provide support and assistance to family members or other major caregivers, notably through social protection programmes, health care and education.

10. Many young children routinely cope with moderate levels of stress and often display extraordinary resilience. However, where risk factors multiply, a negative cycle can be triggered, whose impacts can be felt throughout the child's life, and intergenerationally. This includes the effects of human rights violations, such as those related to extreme poverty, disease, conflict, inadequate care, neglect, violence and exploitation. Early childhood presents a window of opportunity for preventing negative outcomes. Early childhood interventions represent cost-effective strategies, and, as a general rule, early interventions generate higher rates of economic return and yield more positive long-term outcomes for individuals and society than later interventions.

11. Implementing rights in early childhood requires a comprehensive, child-centred framework of laws, policies and community-based services. Offering a continuum of care, health care, education and development through a multisectoral approach is of prime importance to enable young children to exercise their rights and achieve their full potential. This must include all children, without discrimination.

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[3] See *Early Childhood Development: A Powerful Equalizer* (World Health Organization (WHO), 2007).

12. Accordingly, a strong, positive agenda for rights in early childhood, as recommended in general comment No. 7 of the Committee on the Rights of the Child, is necessary. Such an agenda requires a shift in attitude, in ways that recognize that young children are active participants in their development, not passive recipients of care and teaching. A positive agenda also requires the development of comprehensive policies and national action plans to ensure respect for the rights of the young child.

B. Progress in fulfilling rights in early childhood: current worldwide situation

Indicators of progress

13. Evidence of progress in implementing rights in early childhood takes several forms. Progress can be seen through: (a) increased adoption and use of strong, rights-based frameworks for development of policy and programmes in early childhood; (b) increased public and professional awareness of the importance of rights in early childhood and of the responsibilities of care providers, as well as young children's own growing understanding of their rights and responsibilities; and (c) evidence from monitoring reports on improvements in basic indicators, including of children's survival, health, education and well-being. These areas of progress must be properly monitored, drawing on tools specifically relevant to rights in early childhood.[4]

14. Achievement of the Millennium Development Goals and other internationally agreed goals can be a strong indicator of progress in many aspects of rights in early childhood. The Millennium Development Goals are closely interconnected in their impact on the rights of the young child. Poverty, maternal and child survival, nutrition, health, protection from violence, abuse and exploitation, gender equality and human development have short- and long-term consequences for the rights of young children, with implications for future generations, as poverty cycles are reproduced.

Maternal and child health

15. Maternal health is crucial for child survival and health, especially at birth and during the earliest weeks of life. Fulfilling the mother's right to health is therefore an imperative to ensure that child rights are fulfilled in early childhood. Millennium Development Goal 5, the aim of which is to improve maternal health, is one of the Goals on which the least progress has been made. While there has been some decline in maternal mortality rates since 1990, the rate of decline is cruelly insufficient to meet the 2015 targets. Globally, 99 per cent of maternal deaths occur in low-income countries, and just 10 countries account for almost two thirds of the deaths. Profound inequalities also exist within countries. Over half of maternal deaths are due to complications at the time of childbirth[5] and can be prevented and/or treated.

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[4] Following the adoption of general comment No. 7, and a subsequent request by the Committee, an expert group, including a representative of the Committee, was established to develop a set of indicators and accompanying implementation manual.

[5] *Progress for Children: A Report Card on Maternal Mortality* (United Nations Children's Fund (UNICEF), 2008).

16. The right to survival is enshrined in the Convention on the Rights of the Child, and progress in reducing child mortality has been modestly encouraging. Millennium Development Goal 4 calls for a reduction in the mortality rate of children under 5 years of age by two thirds between 1990 and 2015. Since 1990, the number of deaths of children under 5 has declined from 12.5 million annually to 8.8 million in 2008.[6] This represents an annual decline of only 1.5 per cent, which will need to be accelerated to over 5 per cent per year during the countdown years to 2015 in order to reach that Goal. The most recent estimates show that maternal and child malnutrition contributes to more than one third of child deaths.[7] Progress in reducing child mortality in many countries, especially in sub-Saharan Africa and South Asia, has been poor, and in a number of those countries, 1 child out of every 10 dies before reaching the age of 5. Furthermore, there are considerable disparities in mortality within many countries; in some, the child mortality rate in the poorest quintile of the population is more than double that in the richest quintile. While some progress has been made in the reduction of deaths among children under 5, there has been virtually no reduction in neonatal deaths. Globally, neonatal deaths now constitute more than 40 per cent of deaths of children under 5.

17. Research efforts have identified many effective interventions known to have a great impact on maternal, newborn and child mortality and morbidity. A common feature among the countries that have made major progress towards Millennium Development Goal 4 has been the scaling up of high-impact packages of these effective interventions.[8] Examples of such interventions are vitamin A supplementation; distribution and use of long-lasting insecticide-treated nets; immunization (including against measles and maternal and neonatal tetanus and the introduction of new vaccines); and prevention of mother-to-child transmission of HIV, a highly effective intervention.[9] Evidence shows that the barriers to universal coverage of health services can be overcome by prioritizing diseases of the poor, deploying services where the poor live, removing financial barriers and monitoring coverage and impact with an "equity lens".

Loss of human potential

18. Every child has the right to develop his or her potential to the maximum extent possible, to become physically healthy, mentally alert, socially competent, emotionally sound and ready to learn.[10] Yet, as reported by the World Health Organization (WHO), it has been estimated that over 200 million children under 5 years of age are not reaching their full potential because of poverty, poor health and nutrition, and deficient care.[11]

19. Although more comprehensive child development indicators are needed, stunting is currently one of the clearest indicators that child development is not being achieved. It is common knowledge that the child who is healthy and well

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[6] *The State of the World's Children 2010* (UNICEF).

[7] *Tracking Progress on Child and Maternal Nutrition* (UNICEF, 2009).

[8] *The State of the World's Children 2008* (UNICEF).

[9] *Towards Universal Access: Scaling up HIV Services for Women and Children in the Health Sector* (UNICEF, Joint United Nations Programme on HIV/AIDS and World Health Organization, 2009).

[10] General Assembly resolution S-27/2.

[11] *Closing the Gap in a Generation: Health Equity through Action on the Social Determinants of Health* (WHO, 2008).

nourished learns better. It is also now well recognized that a healthy environment, with good nutrition and positive learning opportunities, affects the development of the brain. Conversely, malnutrition, early disease and a stressful environment can impair brain development, with negative consequences for psychomotor and cognitive indicators, including attention span, as well as education outcomes.[12] Despite a decline in stunting prevalence since 1990, from 40 per cent to 29 per cent, approximately 195 million children under 5 in the developing world remain stunted, with large disparities between the richest and poorest both within and between countries. Eighty per cent of the global burden of chronic undernutrition is in 24 countries (with stunting prevalence above 50 per cent in Afghanistan, Burundi, Ethiopia, Guatemala, Madagascar, Malawi, Rwanda, Timor-Leste and Yemen).[7]

20. It is encouraging to report that 63 countries (out of 117 with available data) are on track to achieve the nutrition target of Millennium Development Goal 1 (reduction of the prevalence of underweight children). There is a need, however, for increased attention to stunting as an indicator of nutrition as well as overall child development and well-being. A number of countries have significantly decreased stunting rates — including Bangladesh, Mauritania and Viet Nam — underscoring that marked improvements can be achieved. Peru's "Good start in life" programme is an effective model of working with a range of stakeholders to strengthen the capacity of rural health workers; it has helped reduce stunting in children under 3. Despite this progress, large disparities still exist in reaching the most disadvantaged children. For example, in both Bangladesh and Viet Nam, prevalence of stunting in the poorest quintile of the population is twice that in the richest quintile.[7]

21. Millions of young children grow up in difficult circumstances that make them vulnerable to exclusion and expose them to multiple risks that may jeopardize their development. These include the risks inherent to extreme poverty and deprivation, as well as those associated with the loss of parental care, being surrounded by conflict and violence, being displaced from one's home or being abandoned and institutionalized. These risks leave young children dependent on others to offer protection and promote their best interests. The Convention on the Rights of the Child identifies additional risks requiring special protection, including economic exploitation; substance abuse; sexual abuse and exploitation; sale, trafficking and abduction; deprivation of liberty; or accusations of breaking the law.[13]

22. In order to better monitor children's right to develop to their full potential, an internationally agreed set of core indicators needs to be established and reported upon regularly. Several instruments have been promoted to close this information gap. They include Save the Children's Child Development Index and the Early Development Instrument promoted by the World Bank. UNICEF has developed an Early Childhood Development Index to be used as part of the multiple indicator cluster survey and other household surveys. The Early Childhood Development Index will further enhance effective data collection to monitor the full implementation of the Convention on the Rights of the Child, as well as any other internationally agreed instruments, to ensure full realization of child rights in early childhood.

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[12] Ibid.

[13] Articles 19-23, 32-35 and 40 of the Convention.

Birth registration

23. A first step in fulfilling children's rights is to ensure that all children are registered immediately after birth, in accordance with article 7 of the Convention on the Rights of the Child. Birth registration should be free and universal. It establishes a child's name and identity and facilitates his or her entitlement to basic services such as health care, education and social protection, consistent with their rights. Children who have not been registered are much more vulnerable to different forms of abuse, violence and exploitation, being "invisible" to the State and thus beyond the reach of the protection and services to which they are entitled. Lack of birth registration may also prevent children from exercising their civil and political rights during childhood and later in life.

24. About 51 million newborns were not registered at birth in 2007. In sub-Saharan Africa and South Asia, nearly two thirds of children were not registered. Children from the poorest households are twice as likely not to be registered as children from the richest households. Other marginalized groups, including indigenous children, also have low registration rates.[14] All necessary measures should be taken to ensure that all children are registered at birth. This can be achieved through a universal, well-managed and culturally sensitive registration system that is accessible to all and free of charge. Widespread challenges include the lack of access to the most disadvantaged populations in remote and rural areas and the prohibitive distances and costs for parents to travel to civil registration offices. Integrating birth registration into social services, including health services and early childhood development programmes, can increase registration rates. Mobile registration has been especially successful in reaching indigenous communities in remote areas, including in Nicaragua and Peru. Effective awareness-raising campaigns are also important in order to increase people's understanding of the value of birth registration and stimulate collective support for it.

Early childhood care and education

25. One of the most effective ways to ensure that every child has a good start in life is through high-quality early childhood care and education programmes. "Learning begins at birth",[15] and, accordingly, goal 1 of the Education for All initiative calls for action on "expanding and improving comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children".[16] Currently, that goal is far from being achieved. Globally, it is estimated that 140 million children were enrolled in early childhood care and education in 2007, compared with 113 million in 1999, but with variations between regions and countries and within countries. For example, gross pre-primary enrolment ratios range from 15 per cent and 19 per cent in sub-Saharan African and Arab States, respectively, to 50 per cent in Central and Eastern Europe, 56 per cent in Latin America and the Caribbean and 75 per cent in North America and Western Europe. Far too many children and families are disadvantaged not only by the poverty of their circumstances, but also by the difficulties they face in having access to quality

[14] *Progress for Children: A Report Card on Child Protection* (No. 8) (UNICEF, 2009).

[15] World Declaration on Education for All (United Nations Educational, Scientific and Cultural Organization (UNESCO), Thailand, 1990).

[16] Dakar Framework for Action (World Education Forum, Senegal, 2000).

programmes and services.[17] The United Nations Educational, Scientific and Cultural Organization *EFA Global Monitoring Report 2009* concluded: "While coverage rates are increasing worldwide, early childhood services of good quality remain inaccessible to the majority of the world's children. This is especially true for children in the poorest countries — and for the most disadvantaged among them. The upshot is a perverse outcome for equity: those with the most to gain from [early childhood care and education] are least likely to participate" (p. 42).

26. Marked disparities exist in organization and philosophy, curriculum and pedagogy, funding levels, governance and accountability of early childhood care and education. In many countries, early childhood care and education spans several government departments, alongside large and small non-governmental organizations and community-based programmes and, in some countries, with significant private sector involvement. Unfortunately, early childhood care and education is frequently uncoordinated as a sector and uncoordinated with primary education[18].

27. Data collected between 1999 and 2003 for 56 developing countries showed that children from the poorest households and with the least educated mothers were consistently much less likely to attend a preschool programme than their more advantaged peers, as public funding for education generally becomes available only at the primary level. Children in rural areas were also less likely to attend than those from urban areas, although these effects were largely accounted for by household poverty and mothers' education. Living in one of the poorest households in Zambia cut the chance of participating in early childhood care and education by a factor of 12 compared with children in the wealthiest households, while the factor rose to 25 in Uganda and 28 in Egypt.[17] Such figures demonstrate the degree to which the provision of early childhood services is linked to inequalities associated with the home environment. Even where disadvantaged children do have access to early childhood services, the services may be of lower quality than those available to their more advantaged peers.

28. More recent data confirm these trends. On average, only one in five children aged 3 to 5 years in developing countries has access to any form of organized (formal or informal) early childhood care and education. Nevertheless, it is encouraging to report that several countries in each region have made strong progress in providing access to early childhood care and education, such as Belarus (where 86 per cent of 3- to 5-year-olds have access to some form of organized early childhood care and education), Jamaica (86 per cent), Trinidad and Tobago (75 per cent), Thailand (61 per cent), Viet Nam (57 per cent) and Ghana (52 per cent).

29. While many targeted programmes reach individual disadvantaged children, overall inequities remain prevalent. The combination of growth in private provision and weaknesses in public programmes means that, overall, the early childhood care and education sector is rarely pro-poor. Large discrepancies in early childhood care and education enrolment between children from the poorest versus the most affluent

[17] *EFA 2010 Global Monitoring Report. Reaching the Marginalized* (UNESCO, 2009).

[18] *Starting Strong II: Early Childhood Education and Care* (Organization for Economic Cooperation and Development (OECD), 2006).

20 per cent of households are reported for countries such as Ghana (23 per cent versus 87 per cent) and Georgia (17 per cent versus 70 per cent).[19]

30. As a consequence, by the time children are in the early stages of primary school, there are already gross disparities in their cognitive skills and readiness for learning. These inequities continue through school, where discrimination related to poverty levels, location in rural versus urban areas, gender, disability, language and ethnicity are among the factors contributing strongly to marginalization and social exclusion.[17]

31. Nevertheless, there are several good examples of early childhood programming that have provided visionary, creative and high-quality learning opportunities for young children and families promoting the holistic development of the child. Community-based comprehensive early childhood programmes such as Wawa Wasi centres in Peru, parenting programmes in Jordan and Turkey, Step by Step preschool programmes in Central and Eastern Europe, community-based childcare centres in Burkina Faso, Kenya, Malawi, Nepal, the Philippines, Swaziland and the United Republic of Tanzania, and mobile yurt kindergartens in Mongolia are among the most inspiring models of promoting cost-effective and sustainable early childhood care and education services. They are tailored to local needs of families and communities, making them accessible to those who are most at risk.

Transition to primary school

32. The definition of early childhood as below the age of eight years includes children making the important transition into primary education. Successive UNESCO reports have emphasized that increased enrolment rates are not sufficient as an indicator of progress in implementing every child's right to education. Evidence on grade repetition rates and school dropout in the first grade suggests that many children are not coming to school ready to learn and that many schools are failing to support their successful transition into school. Specific attention must be given to improving the transition into primary school, particularly for disadvantaged children. Children from the poorest 20 per cent of households are two to three times less likely to attend primary school than those from the most affluent 20 per cent, and girls in rural or the very poorest households are most likely to be excluded from primary school. Children from indigenous and minority groups represent the largest percentage of those out of school — between 50 and 70 per cent, worldwide; and children with disabilities are the least likely to go to school at all.[17]

33. The right of young children to education is not respected where children face overcrowded classrooms, with teaching that is ill-suited to their needs, often combined with inappropriate disciplinary approaches. Reforms are currently under way in many countries to address the quality imperative through strengthening of school infrastructures, resourcing, curricula, pedagogy and professional development. It is also essential to improve coordination between primary education and early childhood care and education services to ensure a smooth transition to primary school.

[19] UNICEF multiple indicator cluster survey available at www.childinfo.org.

Multiple inequities

34. The indicators cited above highlight immense inequities in progress made towards the implementation of children's rights in early childhood. In addition, they show that the child's capacity to achieve his or her full potential and exercise his or her rights throughout life is shaped by the circumstances of birth, including those that affect the mother and other immediate caregivers.

35. The provision of appropriate health care and nutrition in the first two years of life is essential for the healthy growth of children. Many young children start life with a double burden: (a) their mothers are among the least educated and have the fewest resources to support them; and (b) they are the least likely to have access to quality health care, proper nutrition, education and protection. All too often these disadvantages are amplified by marginalization and in some cases discrimination, throughout early childhood, particularly affecting children with disabilities, indigenous children, minority children and other marginalized communities. The provision of high-quality early childhood services targeted to disadvantaged children and families can be a powerful equalizer, fulfilling rights, promoting social justice and positively affecting society.

Marginalized groups

36. Despite robust international and national legal frameworks in support of human rights, the social groups that have traditionally suffered from marginalization and discrimination within their countries and societies are still consistently the most at risk of having their rights violated or unfulfilled.

37. These rights are most at risk when systems are configured around segregation of and discrimination against children based on their, or their parents' or legal guardians', race, colour, sex, language or religion; political or other opinion; national, ethnic or social origin; or property, disability, birth or other status. Compounded forms of discrimination, whose effects can be multiplicative, highlight even greater barriers to the fulfilment of children's rights. In certain regions, there is a legacy of systematically categorizing young children with disabilities and admitting them to special, often residential, institutions where they may be abandoned by their parents and stigmatized by society. In many countries, lack of culturally appropriate assessments, pervasive prejudice and limited ability of the education system to accommodate diversity have resulted in gross overrepresentation of children in segregated special classrooms and schools.[20]

38. National statistical averages can disguise disparities in opportunities available to children. For example, overall progress is being made towards greater gender equity in access to early care and education in most regions. Data from multiple indicator cluster surveys suggest that gender disparities are generally insignificant in terms of overall rates of early childhood enrolment, except in Arab States, where 9 girls are enrolled for every 10 boys.[17] However, at the community level, the reality may be different. Poverty and restricted opportunities often combine with certain traditional attitudes and practices towards girls and boys, in shaping household decision-making about the balance of economic activity, about domestic responsibilities versus education and about the choice of school (especially between

[20] *Innocenti Social Monitor 2009: Child Well-Being at a Crossroads: Evolving challenges in Central and Eastern Europe and the Commonwealth of Independent States* (UNICEF, 2009).

public and private schools). The effect is therefore a gender imbalance between boys' and girls' access to quality early childhood care and education and primary education, once the data are disaggregated to the community and household level in many regions.

Alternative care for children

39. In some circumstances, alternative care becomes necessary for children who are deprived of parental care or are at other forms of risk. General Assembly resolution 64/142 welcomed the Guidelines for the Alternative Care of Children, a set of orientation principles to help inform policy and practice in this regard. The Guidelines affirm that the family is "the fundamental group of society and the natural environment for the growth, well-being and protection of children" but also that the State is responsible for ensuring appropriate alternative care in situations where the child's own family is unable to do so, even with appropriate support. The Guidelines build on two principles: (a) establishing the necessity of alternative care and (b) identifying the appropriateness of alternative forms of care. All efforts should be made to strengthen families with a view to keeping the child with his or her family. Only in cases where efforts to enable the child to remain within the family are not feasible, or not successful, should alternative care be considered. All decisions should be made on a case-by-case basis, to ensure the child's safety and security. They must be grounded in the best interests and rights of the child concerned, without discrimination, and fully respect the child's right to be consulted. They also need to be culturally sensitive. Options include foster care, other family-based environments or small-group residential care. Keeping in mind that removing a child from the care of his or her family should be a measure of last resort, family-based alternative care is identified as the best alternative-care option for young children, especially for children below the age of 3 years.

Violence towards young children

40. Exploitation and violence undermine the realization of children's rights, and particularly the rights of young children. All children, including young children, have a right to be protected from all forms of physical and mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.

41. The United Nations Study on Violence against Children drew attention to widespread failure to protect children from the various forms of violence that they face in the family, school, care and justice institutions, places of work and community settings.[21] Building upon General Assembly resolution 62/141, the position of Special Representative of the Secretary-General on Violence against Children has been established by the Secretary-General to promote the dissemination of the United Nations Study and ensure follow-up to its recommendations. In her global advocacy role of preventing and addressing all forms of violence against children of all ages, including young children, the Special Representative has placed a special emphasis on three strategic areas:

(a) The development in each State of a national comprehensive strategy to prevent and respond to all forms of violence, mainstreamed in the national planning

[21] See A/61/299.

committed to making it a key part of policy reform to expand quality early childhood development to the most vulnerable.

50. Policies and programmes that effectively encompass the continuum of care, health, education and development have the potential to better address the rights of each individual child, thereby promoting social justice and helping break cycles of poverty.

C. Impact of global economic growth, recession and climate change on young children and families

Economic progress and widening inequalities

51. The first decade of the twenty-first century has witnessed strong economic growth, including in many of the world's poorer countries. Progress towards the Millennium Development Goals has been steady, and young children have benefited in terms of resources available to their families, as well as improved infrastructures and services. However, overall progress towards Millennium Development Goals at the global or even national level is not in itself an indicator of greater respect for the rights of all young children, particularly the most disadvantaged. The benefits of economic growth have not been enjoyed equally between and within countries. On the basis of the World Bank's *World Development Indicators*, inequalities as measured by the Gini coefficient have increased in the 2000s compared to the 1990s in 49 out of the 86 countries for which data are available. The goal must be to achieve growth with equity. Increasing prosperity must go hand in hand with policies to ensure fairness and protect those less able to benefit from that growth.

Impact of crises and climate change on young children

52. According to the World Food Programme, climate change is forecast to increase the number of malnourished children by 24 million (or 21 per cent) by 2015. The biggest rise in the number of malnourished children will be in sub-Saharan Africa, where a 26 per cent increase is forecast in the number of children lacking adequate nutrients.

53. The combination of food and fuel price increases, followed by the global economic slowdown, has taken a toll on poor families through lower purchasing power, reduced access to social services and higher unemployment. This crisis comes on top of an existing human crisis, where half of the world was already living below the $2 per day poverty line. On top of the millions pushed into poverty in 2008 and 2009, the World Bank's latest estimates predict that as many as 90 million more people could fall into extreme poverty in 2010 as a result of the combined and lingering effects of the crisis.[22] Recent progress in reducing infant mortality is at risk of being undermined by the global slowdown.[23]

54. The world faces the risk of the marginalized and the poor being left out of economic recovery, thereby worsening inequity. The United Nations has called for a recovery for all, avoiding a reversion to the pre-crisis conditions that denied too

[22] *Global Economic Prospects 2010* (World Bank, Washington, D.C., 2010).

[23] "Infant mortality during economic downturns and recovery" (UNICEF, 2009).

many households a fair chance at a decent living.[24] Global stabilization and recovery debates must take into consideration the specific needs of vulnerable populations. Despite incipient signs of recovery, the need for public support for children remains great. The fiscal problems some countries face demand urgent action. The path of economic recovery, sustainable public budgets and long-term growth rates has far-reaching implications for disadvantaged children and families. It is imperative to consider the social impacts of economic policy choices and provide impetus for prioritizing public expenditures towards pro-poor and child-focused investments, addressing real output, incomes, employment and the urgent needs of vulnerable populations. These investments in children are key to a recovery for all.

55. Young children are the most vulnerable in any society by virtue of their sensitive developmental stage and dependency on others to protect and promote their best interests. Their level of resilience in the face of the impacts of economic shocks and other adversities is largely determined by the resources available to their mothers, fathers and other family members (or community-based caregivers) who take primary responsibility for their nurturing, health, well-being and physical and psychosocial security. Loss of livelihoods, demoralization and feelings of helplessness among family members affect the young child. This is especially true in households with few protective buffers, such as kin support, social and educational capital or material reserves. The chances of having access to quality services also decrease. Furthermore, young children are more likely to be initiated into working to try to support their family, or girls to be kept at home to look after younger siblings while parents work; and they are less likely to enrol in early childhood services or primary school. Expenditure reductions on health and education services and/or increases in costs to users directly or indirectly increase the probability of exclusion. The added risk to children is that the short-term coping strategies adopted by families could be detrimental in the longer term, because they lower the capacities of family members, including children, to benefit from, and contribute to, economic recovery.[25]

Child-sensitive social protection

56. Social protection is an effective strategy for States to protect the most disadvantaged populations. Child-sensitive social protection systems can mitigate the effects of poverty on families, strengthen families in their childcare role and enhance access to basic services for the poorest and most marginalized, including at-risk children living outside family care. However, social protection frameworks have not always effectively encompassed the specific needs of young children. In 2009 a joint statement by United Nations agencies and partners[26] set out principles of child-sensitive social protection, and the specific strategies that can achieve positive outcomes for children.

[24] "Voices of the vulnerable: recovery from the ground up" (United Nations Global Pulse, 2010).

[25] "Inclusive crises, exclusive recoveries, and policies to prevent a double whammy for the poor" (UNICEF, 2010).

[26] UNICEF, United Nations Development Programme, International Labour Organization, World Bank, United Kingdom Department for International Development, HelpAge International, Hope & Homes for Children, Institute of Development Studies, Overseas Development Institute and Save the Children UK.

57. While well-established social protection models that have yielded positive results for young children exist, such as Mexico's Oportunidades and Brazil's Programa Saúde da Família, 47 per cent of low- and middle-income countries have no social safety programmes (19 out of 49 low-income countries and 49 out of 95 middle-income countries).[6]

58. Social protection policies and programmes work best when they are based on a comprehensive assessment of influences, both macro and micro, on families and children, maintain core programmes and protect low-cost community-based programmes. Ensuring the maintenance of basic perinatal services and health and nutrition programmes is a priority for addressing the rights of the most disadvantaged in early childhood care and education and to expand social protection. Monitoring indicators of young children's well-being is an integral component of every social protection strategy, and an essential tool for gauging the progress made in implementing child rights in early childhood.

Way forward

59. All children are entitled to the full realization of rights, without discrimination, throughout their early childhood, as guaranteed by the Convention on the Rights of the Child and other internationally agreed instruments. They have the right to survive and to enjoy their early childhood and be fully respected both in their own right and as members of families, communities and nations, with their own concerns, interests and points of view. To exercise their rights, young children have particular requirements, including access to quality health and nutrition services and safe and emotionally fulfilling environments where they can play, learn and explore, under the responsive guidance of parents and other primary caregivers.

60. Many challenges remain in fully ensuring that young children's rights are fulfilled in a holistic manner that will guarantee that all children survive, thrive and develop to their full potential. Progress towards achievement of the Millennium Development Goals has had a positive impact on the young child's rights to survival, development, participation and protection, but progress remains slow. Achieving equity and reaching the most disadvantaged children and their families represents the greatest challenges in this area. Non-universal targets at the national or even the global level require additional attention to the most disadvantaged to avoid the risk of further marginalization.

61. Governments, international actors, civil society, communities and families can strengthen their efforts to ensure the full realization of children's rights in early childhood, by constructing a positive agenda, working towards a long-term vision for the holistic development of the child during this critical phase of the life cycle. This agenda includes promoting respect for the rights of the young child in national policies and programmes and in everyday settings, including ensuring protection from all forms of violence, abuse and exploitation and ensuring that the young child has the right to be heard within families, in childcare, health and education services, in legal proceedings and in the development of policies and programmes. States are encouraged to:

(a) **Establish a framework of laws, policies and programmes ensuring that the rights of the child are implemented within a continuum of care (maternal, newborn, child health), education and protection throughout the early years of life, including:**

(i) Developing a plan for the realization of children's rights in early childhood that is comprehensive in scope, is supported by operational strategies with clear goals, timelines and adequate resources, and is aimed at ensuring the development of the child's fullest potential, protecting young children from all forms of violence, abuse and exploitation, and maximizing opportunities for their voice to be heard in all matters that affect them. These strategies should involve all levels of government and include civil society partners;

(ii) Supporting research, monitoring and evaluation studies on young children's rights, development and well-being, including the identification of indicators that are universally accepted, locally relevant and easily applied;

(b) Promote comprehensive community-based strategies that are cross-sectoral in their scope and organization, and that include:

(i) Strengthening the care environment into which the child is born, ensuring that mother and infant have access to a package of essential interventions and services, including antenatal care, birth at quality facilities, newborn and postnatal care, proper nutrition and formal and informal networks of support and protection;

(ii) Ensuring that all children are registered at birth through an accessible birth registration system that is without cost to families;

(iii) Developing and regulating early childhood care and education programmes in ways that enhance the quality of children's lives and strengthen their health, growth, learning and development;

(c) Implement pro-equity strategies for early childhood, beginning with a strategy to achieve all the Millennium Development Goals with equity. Successful pro-equity strategies for early childhood include:

(i) Realizing every child's right to birth registration; survival, health and development; protection from all forms of violence, abuse and exploitation; quality care and education; and positive opportunities for participation;

(ii) Providing adequate child-centred social protection to ensure that there is a buffer for the most vulnerable children and families, along with quality early childhood care and education programmes targeted especially to individuals and groups that are most disadvantaged and most at risk of social exclusion or discrimination;

(iii) Monitoring the changing situation of children and families faced with major shocks, including those associated with economic and social change and natural and man-made disasters, and ensuring that data are timely and sufficiently detailed to allow informed, effective and appropriate interventions;

(d) Strengthen awareness and recognition of rights in early childhood, including:

(i) **Supporting and empowering parents, families and communities to fulfil their responsibilities as primary duty bearers, including through adequate legislation, and support, education and awareness programmes for parents;**

(ii) **Building capacity in the area of early childhood rights and increasing the knowledge of all duty bearers, including professionals and policymakers across all sectors and at all levels, as well as community and civil society leaders and children themselves as the rights holders;**

(iii) **Fostering inclusive institutional practices and structures that promote culturally appropriate and child-centred interventions and anti-discrimination training for professionals;**

(e) **In collaboration with United Nations agencies, establish a global alliance to advocate for the full implementation of the Convention on the Rights of the Child and its Optional Protocols in early childhood, to leverage resources and to monitor progress towards the fulfilment of every young child's rights throughout early childhood.**

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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Elimination of all forms of religious intolerance

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, submitted in accordance with General Assembly resolution 64/164.

* A/65/150.

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Interim report of the Special Rapporteur on freedom of religion or belief

Summary

The Special Rapporteur on freedom of religion or belief, Asma Jahangir, submits the present report to the General Assembly pursuant to its resolution 64/164, in which the Assembly, inter alia, urged States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief. In this context, the Special Rapporteur illustrates some issues of concern and provides examples from her mandate practice over the past six years. The issues covered in the present report include (a) adequate and effective guarantees of freedom of thought, conscience, religion and belief for all without distinction; (b) deprivation of the right to life, liberty or security of person because of religion or belief, and cases of torture and arbitrary arrest or detention; (c) women and freedom of thought, conscience and religion or belief; (d) non-discrimination, inter alia regarding access to education, medical care, employment, humanitarian assistance or social benefits; (e) registration practices; (f) official documents and information on religious affiliation; (g) right to worship, assemble or teach in connection with a religion or belief; (h) religious places, sites, shrines and symbols; (i) religious, charitable or humanitarian institutions; (j) awareness-raising, education or training for public officials and civil servants; (k) combating hatred, discrimination, intolerance and acts of violence, intimidation, coercion and incitement to hostility and violence; (l) promotion of understanding, tolerance, non-discrimination and respect in the society at large; and (m) signs of intolerance that may lead to discrimination.

The Special Rapporteur also gives an overview of the activities carried out under the mandate since the submission of her previous report to the General Assembly (A/64/159), including communications sent to States concerning individual cases, country visits and other activities of the mandate holder.

The Special Rapporteur concludes that religious issues are particularly sensitive and that States play a very delicate role in promoting freedom of religion or belief as well as in protecting people from abuse in the name of religion or belief. She stresses that all human rights violations must be adequately addressed, regardless of the religious affiliation of the perpetrator or the victim. The Special Rapporteur also reaffirms the need for the mandate to continue highlighting discriminatory practices that women have had and continue to suffer, sometimes in the name of religion or belief.

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I. Introduction

1. The mandate of the Special Rapporteur on freedom of religion or belief was created by the Commission on Human Rights in its resolution 1986/20.[1] In 2007, the mandate was reviewed and renewed by the Human Rights Council in its resolution 6/37.[2]

2. The General Assembly, in its resolution 64/164, welcomed the work of the Special Rapporteur and requested her to submit an interim report to the Assembly at its sixty-fifth session. Consequently, the Special Rapporteur elaborates in section II of the present report some issues of concern with regard to freedom of thought, conscience and religion or belief. In section III, the Special Rapporteur gives an overview of the activities carried out under the mandate since the submission of her previous report to the Assembly (A/64/159). In section IV, she provides some general conclusions and recommendations.

3. On 18 June 2010, the Special Rapporteur's mandate was extended for a further period of three years by the Human Rights Council in its resolution 14/11. As the term of Asma Jahangir as Special Rapporteur on freedom of religion or belief expires on 31 July 2010 after six years on the mandate, she would like to take this opportunity to thank all Member States and representatives of civil society for their cooperation and support during the course of her term. The Special Rapporteur is also grateful for the quality of the assistance that she has received from staff members at the Office of the United Nations High Commissioner for Human Rights (OHCHR).

4. Heiner Bielefeldt, the new mandate holder who was appointed during the fourteenth session of the Human Rights Council, takes office as Special Rapporteur on freedom of religion or belief on 1 August 2010.

II. Freedom of thought, conscience and religion or belief

5. In its resolution 64/164, the General Assembly urged States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief and identified 13 areas where efforts to that end should be intensified.[3] In the present report, the Special Rapporteur would like to address each of those 13 areas by elaborating on some issues of concern and by providing examples from the mandate practice over the past six years, including from country visits and communications sent to the Governments concerned.

A. Adequate and effective guarantees of freedom of thought, conscience, religion and belief for all without distinction

6. At the outset, the Special Rapporteur would like to emphasize that constitutions and domestic legislation must guarantee freedom of religion or belief and non-discrimination. In this context, she notes with regret that in recent years

[1] See *Official Records of the Economic and Social Council, 1986, Supplement No. 2* (E/1986/22), chap. II, sect. A.

[2] See A/HRC/6/22, chap. I.

[3] See paragraph 11 of General Assembly resolution 64/164.

some States have adopted provisions that are openly discriminatory against religious minorities.

7. The new Constitution adopted in one State in 2008, for example, includes a clause which limits citizenship only to those who adhere to the State religion.[4] The Special Rapporteur is deeply concerned that the implementation of this constitutional clause could have a significant negative impact on human rights in the country, including for converts, who risk losing their citizenship and becoming stateless. Measures that discriminate on the basis of religion or belief, or lead to de facto discrimination on such grounds, violate human rights standards. Consequently, it is contrary to the principle of non-discrimination to restrict citizenship to people with certain religious beliefs.

8. In another State, subsequent to a referendum in 2009, the construction of minarets was banned and the national Constitution was amended accordingly. In a press statement, the Special Rapporteur voiced her deep concerns at the negative consequences of the vote's outcome and she urged the State's authorities to abide by all its international obligations.[5] The Special Rapporteur indicated that a ban on minarets amounted to an undue restriction of the freedom to manifest one's religion and constituted clear discrimination against members of the Muslim community. She would also like to highlight the need to continue raising awareness and educating people about religious diversity, thus eliminating the grounds for fears which are prone to be exploited for political purposes.

9. In addition, the Special Rapporteur is concerned that some domestic laws oblige those who wish to take up posts in the public service or become part of the judiciary to take an oath declaring their allegiance to a certain religion.[6] Moreover, several constitutional provisions require the president, the prime minister or members of parliament to be affiliated with a certain religion and to publicly take an oath to that effect. The Special Rapporteur would like to reiterate that restricting public posts to members of certain religions or particular religious denominations may constitute de facto discrimination. Furthermore, States should in their personal status laws provide the possibility to have an interreligious marriage for individuals who have different religious affiliations or no religion at all.

10. In addition to non-discriminatory provisions in constitutions and other domestic laws, it is vital to put in place effective remedies for cases of human rights violations. The Special Rapporteur has sent numerous communications to Governments on individual cases in which freedom of religion or belief, including the right to change one's religion, was allegedly violated. In one case, for example, a convert to Christianity approached the national registration department, requesting that the religious status be changed on her identity card. However, the administration rejected her application and national courts held that the religious sharia court had complete jurisdiction on conversion to Islam and, by necessary implication, would have jurisdiction on apostasy and conversion out of Islam.[7] The

[4] See A/HRC/10/8/Add.1, paras. 146-148, and the Special Rapporteur's report on her mission to Maldives (A/HRC/4/21/Add.3).

[5] See the Special Rapporteur's press release of 30 November 2009, "Switzerland: UN expert on religious freedom regrets outcome of vote to ban construction of minarets".

[6] See A/63/161, para. 38.

[7] See the Special Rapporteur's communication of 12 October 2005 and the response from the Government of Malaysia dated 28 July 2008 (A/HRC/10/8/Add.1, paras. 135-143).

Special Rapporteur would like to reiterate that the freedom to have or to adopt a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views.[8] Article 18 of the International Covenant on Civil and Political Rights protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief.

B. Deprivation of the right to life, liberty or security of person because of religion or belief and cases of torture and arbitrary arrest or detention

11. As evidenced in the Special Rapporteur's reports on cases transmitted to Governments and replies received,[9] many individuals have been deprived of their right to life, liberty or security of person because of religion or belief and have been subjected to arbitrary arrest or detention and torture on that account. Those human rights violations seem to particularly affect members of religious minorities. Their vulnerable situation is aggravated when Governments target religious minorities by registering names and harassing those individuals. States are not only obliged to protect their own citizens; they also must ensure that no one within their jurisdiction suffers from human rights abuses and must bring to justice all perpetrators of violations of these rights.

12. Interreligious or intrareligious tensions, if not adequately addressed, may lead to large-scale communal violence. Such tensions have unfortunately caused the death of numerous individuals. While noting that the reasons for such violence may be manifold and complex, the Special Rapporteur has also observed that the violence often unfolds along religious lines and that the instigators of this violence find that they can gain more support if they put their arguments in religious terms. The Special Rapporteur would like to reiterate that States are obliged to investigate any violence that occurred, including the identification and prosecution of alleged perpetrators, and allow victims to file claims for the damage they have suffered. States must also ensure the protection and security of members of religious communities which may be targeted and which should be entitled to practise their religions freely and without any obstacles, including those placed by non-State actors.

13. Religious convictions are occasionally put forward to justify certain harmful practices and in some States these are incorporated in domestic legislation. For example, in a mission report the Special Rapporteur analysed certain forms of punishment contained in sharia penal codes. She came to the conclusion that the punishments of stoning or amputation constitute at least cruel, inhuman and degrading treatment that is prohibited in absolute terms by various international conventions.[10]

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[8] See paragraph 5 of Human Rights Committee general comment No. 22 (1993), *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 40* (A/48/40), vol. I, annex VI.

[9] A/HRC/13/40/Add.1, A/HRC/10/8/Add.1, A/HRC/7/10/Add.1, A/HRC/4/21/Add.1, E/CN.4/2006/5/Add.1 and E/CN.4/2005/61/Add.1.

[10] See report on the Special Rapporteur's mission to Nigeria (E/CN.4/2006/5/Add.2, paras. 68 and 100) and her follow-up table (www2.ohchr.org/english/issues/religion/docs/followup/FU-Nigeria.pdf).

C. Women and freedom of thought, conscience and religion or belief

14. There are a number of practices that discriminate against women or are harmful to their health, such as female genital mutilation, infanticide, cruelty to widows, honour killings and discriminatory personal status laws. Many of the practices are attributable mainly to cultural interpretations of religious precepts or even conflict with the prescriptions of religions. However, certain harmful practices are claimed by religious leaders, communities or States as a religious duty by which they and their ancestors have been bound since time immemorial. All this makes it particularly difficult to challenge and adequately address such harmful practices.

15. The mandate has addressed these issues in communications to Governments, thematic reports and during country missions.[11] The Special Rapporteur has recommended enacting legislation to eliminate discriminatory or harmful practices and repealing laws that infringe the rights of women. With regard to female genital mutilation, for example, States should penalize those performing such harmful practices and provide assistance in securing alternative sources of income for practitioners, for example as birth attendants. In terms of preventive domestic measures, States should be encouraged to develop legal literacy and training strategies at all levels of society, with the aim of altering discriminatory cultural norms and attitudes. In this context, dialogue between the authorities and religious leaders and other members of society, including medical practitioners, political leaders, education authorities and the media, is an important prevention measure.

16. States should take effective and necessary steps to ensure enjoyment by women of their rights to equality before the law and equal protection of the law. States should adopt appropriate measures to provide criminal law protection for women against violence stemming from traditional cultural practices that pose a threat to their health and lives. With a view to achieving lasting improvements, action to eliminate violence against women should not only target the effects of the phenomenon but also its root causes. In addition, States should strengthen monitoring mechanisms, official bodies and civil society institutions which play a role in the protection and promotion of women's rights, in the light of harmful cultural practices. States should also be encouraged to withdraw reservations on religious grounds which may adversely affect or restrict international legal instruments concerning the protection of the status of women, in particular the Convention on the Elimination of All Forms of Discrimination against Women.

D. Non-discrimination, inter alia in access to education, medical care, employment, humanitarian assistance or social benefits

17. The Special Rapporteur has dealt with cases in which certain individuals or groups had been discriminated against on the basis of their religion or belief when accessing education, medical care, employment, humanitarian assistance or social benefits.[12]

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[11] See E/CN.4/2002/73/Add.2; A/64/159, paras. 59-63; and A/HRC/10/8, paras. 25-28.

[12] See the Special Rapporteur's 2009 annual report (A/HRC/10/8, paras. 29-54) for an analysis of discrimination based on religion or belief and its impact on the enjoyment of economic, social and cultural rights.

18. In one State, for example, since 2004 domestic legislation prohibits the wearing of conspicuous religious symbols in public schools. Although the scope of the 2004 law applies equally to all religious symbols, its application seems to particularly affect young Muslim women wearing the headscarf and members of the Sikh community.[13] The 2004 law is intended to protect the autonomy of minors who may be pressured or forced to wear religious symbols; however, it denies the right of those minors who have freely chosen to wear a religious symbol to school as part of their religious belief. The Special Rapporteur and human rights treaty bodies held that the ban may be counterproductive, by neglecting the principle of the best interests of the child and the right of the child to access to education. The Special Rapporteur also called upon the Government to promptly provide redress to persons who have been the victim of discrimination because of wearing a religious symbol.

19. Members of religious minorities seem to be particularly vulnerable to discrimination and denial of their rights, including access to education. The Special Rapporteur sent communications to a State where more than 100 Bahá'í students had allegedly been expelled from universities, based on an instruction by the country's Central Security Office to expel any student discovered to be a Bahá'í, whether at the time of enrolment or in the course of their studies.[14] In this regard, the Special Rapporteur would like to recall that policies or practices that restrict access to education or employment are inconsistent with the prohibition of coercion set out in article 18, paragraph 2, of the International Covenant on Civil and Political Rights.[15]

20. Another example of discriminatory laws or practices in the context of social benefits is the link made in one State between Scheduled Caste status and affiliation to specific religions.[16] Government benefits for members of Scheduled Castes are by law limited to Hindus, Sikhs and Buddhists. This may create problems for Dalits who have converted to Islam or to Christianity and thus lose their entitlement under affirmative action programmes. In this regard, the Special Rapporteur has recommended that Scheduled Caste status and its related benefits should be delinked from the individual's religious affiliation.

E. Registration practices

21. A number of existing registration practices need to be reviewed by States to ensure that such practices do not limit the right of all persons to manifest their religion or belief, either alone or in community with others and in public or private. Domestic registration requirements often appear to be used as a means to limit the rights of members of certain religious minorities.

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[13] See the Special Rapporteur's report on her mission to France (E/CN.4/2006/5/Add.4, paras. 47-72 and 98-104) and the Government's reply in the follow-up table (www2.ohchr.org/english/issues/religion/docs/followup/FU-France.pdf).

[14] See the Special Rapporteur's communications of 24 April 2007 and 12 February 2008, as well as the reply of the Islamic Republic of Iran (A/HRC/7/10/Add.1, paras. 121-124 and A/HRC/10/8/Add.1, paras. 90-92).

[15] See paragraph 5 of Human Rights Committee general comment No. 22 (1993), *Official Records of the General Assembly, Forty-eighth Session, Supplement No. 40* (A/48/40), vol. I, annex VI.

[16] See the Special Rapporteur's report on her mission to India (A/HRC/10/8/Add.3, paras. 27-28 and 71).

22. The Special Rapporteur would like to reiterate that Governments should widely inform the population, including appropriate law enforcement agencies, about the principle that registration does not constitute a precondition for practising one's religion or belief.[17] Moreover, any procedure for registration of religious associations should be transparent, including with regard to the time frame of the process. Such registration procedures should be easy, quick and not depend on reviews of the substantive content of the beliefs of the association. Provisions which are vague and grant excessive governmental discretion in giving registration approvals should not be allowed. It is imperative that no religious group be empowered to decide about the registration of another religious group. Furthermore, requiring high minimum membership levels or a lengthy existence in the country concerned are not appropriate criteria for registration.

23. In the case of refusal of registration, the relevant institutions have an obligation to formally transmit to the community or group concerned the exact reasons for the refusal. Furthermore, Governments should ensure that these groups or communities have unimpeded access to the competent courts for a judicial review of the refusal. Since international human rights law recognizes freedom of religion or belief regardless of registration status, those who cannot or do not wish to register should still be able to individually and collectively manifest their religion or belief. Any limitations on this freedom must not only be prescribed by law but also be necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

F. Official documents and information on religious affiliation

24. The Special Rapporteur regrets that in some States official documents are withheld from individuals on the grounds of religion or belief. Furthermore, the right to refrain from disclosing information concerning one's religious affiliation on such documents against one's will is not always respected. In her report to the General Assembly in 2008, the Special Rapporteur analysed religious discrimination in administrative procedures, for example regarding access to official documents.[18]

25. At the same time, she notes with appreciation some recent positive developments. In one State, domestic courts in 2008 and 2009 annulled decisions in which the administration had abstained from putting a dash in the space reserved for religion on identity cards or birth certificates as requested by the applicants.[19] This ended a discriminatory policy in that country of non-issuance of official documents for Bahá'ís unless they had converted to one of the three religions recognized by that State. In this context, the Special Rapporteur would like to re-emphasize that article 18 of the International Covenant on Civil and Political Rights also protects the right not to profess any religion or belief.

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[17] See the Special Rapporteur's reports on her missions to Azerbaijan (A/HRC/4/21/Add.2, paras. 96-97), Angola (A/HRC/7/10/Add.4, paras. 16-24) and Turkmenistan (A/HRC/10/8/Add.4, paras. 22-32).

[18] A/63/161, paras. 31-36 and 45-54.

[19] See the Special Rapporteur's communications to Egypt (E/CN.4/2004/63, paras. 40-41; E/CN.4/2005/61/Add.1, para. 85; E/CN.4/2006/5/Add.1, para. 117; A/HRC/7/10/Add.1, paras. 79-85; and A/63/161, para. 32).

26. The Special Rapporteur also wishes to refer to a recent judgment of the European Court of Human Rights with regard to taking an oath as witnesses, complainants or suspects in domestic criminal proceedings.[20] The Code of Criminal Procedure of the State in question required people to give details of their religious beliefs if they did not want the presumption that they were Orthodox Christians to apply to them. In addition, all witnesses were required to state their religion before testifying in criminal proceedings. The European Court of Human Rights reaffirmed that freedom to manifest one's religious beliefs included an individual's right not to reveal his or her religious beliefs. The State should not oblige anyone to act in such a way that it is possible to conclude whether he or she has, or does not have, religious beliefs.

G. Right to worship, assemble or teach in connection with a religion or belief

27. Some States unduly restrict the rights to worship, assemble or teach in connection with a religion or belief, to establish and maintain places for these purposes, and to write, issue and disseminate relevant publications in these areas. In this context, the Special Rapporteur has also addressed the question of missionary activities and other forms of propagating one's religion or belief in her thematic and country reports.[21]

28. In one State, those religious groups that were not registered could not hold religious gatherings or worship collectively, even in private houses. In order to prevent any problems with the authorities, some religious communities seemed to refrain in this domestic context from any missionary activity, even if this was to some extent inherent to their faith. However, the Special Rapporteur would like to reiterate that missionary activity cannot be considered a violation of the freedom of religion and belief of others if all involved parties are adults able to reason on their own and if there is no relation of dependency or hierarchy between the missionaries and the subjects of the missionary activities.[22]

29. In another State, members of religious minorities highlighted the practical problem that missionary work could, usually at the request of the local authorities, only be performed within their places of worship.[23] Religious pamphlets distributed in the streets were confiscated by the local authorities and people were fined for talking to passers-by about God. Importing or distributing religious publications needed prior approval. The Special Rapporteur would like to emphasize that restrictions on the freedom to manifest one's religion or belief or to exercise freedom of expression must strictly abide by the provisions of articles 18.3, 19.3 and 20 of the International Covenant on Civil and Political Rights.

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[20] European Court of Human Rights, judgment of 3 June 2010, *Dimitras and others v. Greece* (application Nos. 42837/06, 3237/07, 3269/07, 35793/07 and 6099/08).

[21] See A/60/399, paras. 55-68, and A/HRC/6/5, paras. 11-12 and 17.

[22] See the Special Rapporteur's report on her mission to the Lao People's Democratic Republic (A/HRC/13/40/Add.4, paras. 32 and 43).

[23] See the Special Rapporteur's report on her mission to Tajikistan (A/HRC/7/10/Add.2, paras. 34-37) and her follow-up table (www2.ohchr.org/english/issues/religion/docs/followup/FU-Tajikistan.pdf).

H. Religious places, sites, shrines and symbols

30. The Special Rapporteur has noted that believers are in a situation of special vulnerability when they worship or assemble at religious sites. The General Assembly, in its resolution 55/254, called upon all States to exert their utmost efforts to ensure that religious sites are fully respected and protected in conformity with international standards and in accordance with their national legislation and to adopt adequate measures aimed at preventing such acts or threats of violence.

31. In May 2010, for example, gunmen armed with grenades attacked two mosques of the Ahmadiyyah community, killing at least 70 members and holding hundreds of worshippers hostage.[24] Members of this religious minority have faced continuous threats, discrimination and violent attacks. The Special Rapporteur would like to reiterate that States must take every step to ensure the security of members of all religious minorities and their places of worship. Furthermore, to prevent the recurrence of similar violence, any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence must be adequately addressed.

32. During and after an armed conflict in a different region, more than 100 churches, monasteries and mosques were damaged or destroyed.[25] In addition, graveyards were destroyed and many of the tombs were desecrated by scattering around the bones found in them. The Special Rapporteur would like to refer to General Assembly resolution 55/254, in which the Assembly encouraged all States, relevant intergovernmental and non-governmental organizations and the media to promote a culture of tolerance and respect for the diversity of religions and for religious sites, which represent an important aspect of the collective heritage of humankind.

33. In addition, in specific contexts the preservation and protection of religious sites and access of believers to places of worship may pose major challenges. For example, while legal provisions exist in one State to safeguard and preserve sacred places from desecration, the Government has only issued implementing regulations for holy sites of the State religion. The Special Rapporteur, however, emphasized that there is an urgent need to preserve and protect also the minorities' religious sites, many of which have been made inaccessible or neglected for decades. She recommended that all parties bind themselves legally to protect the rights of religious minorities, paying particular attention to include comprehensive guarantees for equality and non-discrimination on grounds of religion or belief, as well as for the preservation of and peaceful access to all religious sites.[26]

34. The Special Rapporteur also follows closely the discussions in a number of countries on banning the wearing of specific religious dress and garments. Recently, most related domestic laws or bills were focusing on restrictions with regard to the display in public places of the full head-to-toe Islamic veil. She notes that this

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[24] See the press release issued on 28 May 2010 by the Special Rapporteur, the independent expert on minority issues and the Special Rapporteur on extrajudicial summary or arbitrary executions, "UN experts strongly condemn attacks against Ahmadis in Pakistan".

[25] See the Special Rapporteur's report on her mission to the Republic of Serbia, including visit to Kosovo (A/HRC/13/40/Add.3, paras. 51-58).

[26] See the Special Rapporteur's report on her mission to Israel and the Occupied Palestinian Territory (A/HRC/10/8/Add.2, paras. 25-39 and 76-77).

discussion on the burka or niqab is not limited to Western States[27] but that related decisions have also been issued in other regions.[28] In her 2006 report to the Commission on Human Rights, the Special Rapporteur already analysed some factual aspects, the legal framework and international case law with regard to religious symbols in general. In this regard, she developed a set of general criteria to balance competing human rights, to assist States in reviewing and drafting legislation on the right to freedom of religion or belief.[29] The Special Rapporteur identified some "aggravating indicators", i.e. legislative and administrative actions which typically are incompatible with international human rights law, for example if exceptions to the prohibition of wearing religious symbols are tailored to the predominant or incumbent religion or belief. At the same time, the Special Rapporteur also referred to "neutral indicators", for example if the interference is crucial to protect the rights of women, religious minorities and vulnerable groups or if the wearer must be properly identifiable, e.g. on an identity card photograph or at security checks. She would like to reiterate that the fundamental objective should be to safeguard both the positive freedom of religion or belief, as manifested by voluntarily displaying religious symbols, and also the negative freedom from being forced to display religious symbols. Special attention should be paid to the protection of women's rights, in particular in the context of wearing the full head-to-toe veil.

I. Religious, charitable or humanitarian institutions

35. The Special Rapporteur has also noted with concern that the freedom to establish and maintain religious, charitable or humanitarian institutions is not always fully respected and protected in accordance with appropriate national legislation and in conformity with international human rights law. On a domestic level, some religious minorities are, for example, not authorized to extend their religious activities into social, health or educational matters.

36. While the right to establish religious, charitable or humanitarian institutions and to receive funding is not unlimited, any restrictions imposed must be prescribed

[27] For example, on 19 May 2010, the Council of Ministers of France approved a bill to ban garments which cover the face in public and to punish those who force someone through threats, violence or misuse of a position of authority to cover her face because of her sex. On 4 May 2010, the Parliament of the Swiss canton of Aargau voted to introduce a motion in the Federal Assembly of Switzerland that would forbid people from wearing the niqab in public places. On 29 April 2010, the Lower House of Parliament of Belgium voted in favour of a bill which bans any clothing that conceals the face in public space, including on the street. Provincial legislation introduced in March 2010 in the Canadian province of Quebec stipulates that Muslim women would need to uncover their faces when dealing with Quebec government services or when they are employees of the province. See also the latest report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/15/53, paras. 46-60).

[28] The High Court of Bangladesh, for example, issued a verdict on 8 April 2010, ordering the Ministry of Education to ensure that women who are employed in public institutions are not required to wear the veil against their will. In January 2010, the Indian Supreme Court ordered that burka-clad women cannot be issued with voter identity cards, rejecting the argument that religion prohibits them from lifting their veils. According to a law passed in 2006 in Kuwait, women with covered faces are not allowed to drive cars in Kuwait.

[29] E/CN.4/2006/5, paras. 51-60.

by law and must be necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others, for example in order to prevent such institutions being misused to advance their cause through violence. In addition, States must prohibit any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

J. Awareness-raising, education or training for public officials and civil servants

37. In resolution 64/164, the General Assembly urged States to ensure that all public officials and civil servants, including members of law enforcement bodies and personnel of detention facilities, the military and educators, in the course of fulfilling their official duties, respect freedom of religion or belief and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate awareness-raising, education or training is provided. In this context, the Special Rapporteur has noted the good practice of a reference guidebook to religious diversity designed to provide members of the police force with information about the different religions and beliefs in a given country and which explains in an accurate and unbiased manner the diversity and specificities of the different religious communities.[30]

38. During her missions, the Special Rapporteur has often noticed problems with regard to the freedom of religion or belief of persons deprived of their liberty. She would like to reiterate that the State should provide personnel of detention facilities with adequate training, raising their awareness of and enhancing their sensitivity to their duty to promote and respect international human rights standards for the treatment of prisoners.[31] In addition, special interrogation techniques that are especially degrading for members of certain religions should be immediately revoked.[32] In order to prevent any potential abuse, States should also ensure that detention facilities are the object of intense public scrutiny, and put in place effective complaints mechanisms.

39. In the context of counter-terrorism measures, the Special Rapporteur is concerned about reports that Muslims are regularly subjected to screening of their personal data, house searches, interrogation and arrest solely because of their religious affiliation.[33] She would like to emphasize that profiling practices based on ethnicity, national origin and/or religion regularly fail to meet the requirement to be a proportionate means of countering terrorism and also entail considerable negative consequences that may render these measures counterproductive in the fight against terrorism.[34]

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[30] A/64/159, para. 7.

[31] See the Special Rapporteur's report on her mission to the Lao People's Democratic Republic (A/HRC/13/40/Add.4, para. 53).

[32] See the joint report of five special procedures mandate holders on the situation of detainees at Guantanamo Bay (E/CN.4/2006/120, paras. 60-62 and 96).

[33] See the Special Rapporteur's report on her mission to the United Kingdom of Great Britain and Northern Ireland (A/HRC/7/10/Add.3, para. 67).

[34] See the related analysis of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/4/26, paras. 32-62 and 83-89).

40. The Special Rapporteur has also reported about the situation of members of groups that are labelled by some domestic authorities as "cults" or "sects".[35] In this regard, she would like to reiterate her predecessor's assessment that, apart from the legal courses available against harmful activities, "it is not the business of the State or any other group or community to act as the guardian of people's consciences and encourage, impose or censure any religious belief or conviction".[36] The terms "belief" and "religion" are to be broadly construed. Thus public officials and civil servants should be informed that freedom of religion or belief is not limited to traditional religions or to beliefs with institutional characteristics or practices analogous to those of traditional religions.

K. Combating hatred, discrimination, intolerance and acts of violence, intimidation, coercion and incitement to hostility and violence

41. In resolution 64/164, the General Assembly urged States to take all necessary and appropriate action, in conformity with international human rights standards, to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to members of religious minorities in all parts of the world. The Special Rapporteur has addressed related issues and presented her conclusions and recommendations in various reports. In a mission report, for example, she voiced concerns at the extended time frame of investigations in cases involving communal riots, violence and massacres.[37] She would like to reiterate that communal violence is not merely a "law and order" problem but has serious socio-economic ramifications. It has been noted that sectarian riots are most likely to occur when the following elements are present: (a) severe long-standing antagonism on religious lines in particular villages and urban localities; (b) an emotional response of members of religious communities to a precipitating event; (c) a feeling in the minds of rioters and the larger religious group to which they belong that sectarian violence is justifiable; and (d) the assessment by the rioters that the reaction from the police to sectarian violence will be either absent or partisan or ineffective.

42. Pursuant to Human Rights Council decision 1/107, entitled "Incitement to racial and religious hatred and the promotion of tolerance", the Special Rapporteur submitted a report to the Council together with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/2/3), in which the Special Rapporteurs recommended that the Council call upon all Governments to express and demonstrate a firm political will and commitment to combating the rise of racial and religious intolerance. The right to freedom of religion or belief as such does not include the right for one's religion or belief to be free from criticism or all adverse comment. Yet, the right to freedom of expression can legitimately be restricted for advocacy that incites to acts of

[35] See for example the Special Rapporteur's observations on the responses of the Government of China (A/HRC/10/8/Add.1, paras. 16-22) and of the Islamic Republic of Iran (A/HRC/10/8/Add.1, paras. 81-85).

[36] E/CN.4/1997/91, para. 99.

[37] See the Special Rapporteur's report on her mission to India (A/HRC/10/8/Add.3, paras. 30-41).

violence or discrimination against individuals on the basis of their religion. The Special Rapporteurs emphasized that freedom of religion or belief and freedom of expression are interdependent and interrelated.

43. In this regard, the Special Rapporteur would like to distinguish between the expression of opinions, even when they are deemed offensive by some believers, and advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence. To protect the integrity of individuals, advocacy of religious hatred must be prohibited by law if it reaches the threshold of article 20, paragraph 2, of the International Covenant on Civil and Political Rights. However, each case has to be examined on its own merits so that freedom of expression and freedom of religion or belief are not undermined. In this regard, the judiciary plays a vital role in striking a delicate balance on a case-by-case basis. As indicated in one of the Special Rapporteur's recent country reports,[38] there is a risk that domestic laws prohibiting hate speech may be interpreted loosely and applied selectively by the authorities, which underlines the importance of having unambiguous language and of devising effective safeguards against abuses of the law. She would like to reiterate that legislation on religious issues should not be vague but rather must be all-inclusive, carefully crafted and implemented in a non-biased manner.[39]

44. The Special Rapporteur would like to refer to positive developments in this regard. Subsequent to her recommendations in a country visit report, the Parliament introduced new legislation which ultimately abolished the discriminatory common-law offences of blasphemy and blasphemous libel in 2008.[40] In addition, recent voting patterns in the Human Rights Council suggest that support for the concept of "defamation of religions" is on the decline at the international level. The Special Rapporteur would like to reiterate that criminalizing so-called defamation of religions as such can be counterproductive and may have adverse consequences for members of religious minorities, dissenting believers, atheists, artists and academics.[41] Instead of trying to shield religions per se against criticism or ridicule, States should rather focus their attention on the protection of believers and non-believers against discrimination and violence. In some countries, however, there still appears to be resistance to abandoning the criminalization of blasphemy or to repealing discriminatory provisions that purport to combat "defamation of religions".[42]

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[38] Report on the mission to the former Yugoslav Republic of Macedonia (A/HRC/13/40/Add.2, paras. 46-48 and 60).

[39] See the report on the 2008 expert seminar on the links between articles 19 and 20 of the International Covenant on Civil and Political Rights: "Freedom of expression and advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence" (A/HRC/10/31/Add.3, para. 24).

[40] See the Special Rapporteur's report on her visit to the United Kingdom of Great Britain and Northern Ireland (A/HRC/7/10/Add.3, paras. 73-75), the Government's replies to the list of issues in connection with the consideration of the sixth periodic report to the Human Rights Committee (CCPR/C/GBR/Q/6/Add.1, para. 165) and the Committee's concluding observations (CCPR/C/GBR/CO/6, para. 4).

[41] See A/62/280, paras. 70-71 and 76-77.

[42] On 19 April 2010, for example, the Constitutional Court of Indonesia upheld the country's anti-blasphemy law (No. 1/PNPS/1965), which imposes criminal penalties of up to five years' imprisonment on individuals who deviate from the basic teachings of the official religions. See also the Special Rapporteur's urgent appeals of 21 April 2008 and 12 June 2008, as well as the response by the Government of Indonesia dated 27 June 2008 (A/HRC/10/8/Add.1, paras. 55-68).

L. Promotion of understanding, tolerance, non-discrimination and respect in the society at large

45. The Final Document of the International Consultative Conference on School Education in Relation to Freedom of Religion or Belief, Tolerance and Non-Discrimination[43] underlines the urgent need to promote, through education, the protection of and respect for freedom of religion or belief, in order to strengthen peace, understanding and tolerance among individuals, groups and nations, and with a view to developing a respect for pluralism. Each State should promote and respect educational policies aimed at strengthening the promotion and protection of human rights, eradicating prejudices and conceptions incompatible with freedom of religion or belief, and ensuring respect for and acceptance of pluralism and diversity in the field of religion or belief, as well as the right not to receive religious instruction inconsistent with one's conviction.

46. In addition, interreligious and intrareligious dialogue may be an important tool for preventing misunderstanding and discrimination based on religion or belief. Such dialogue, especially when it involves youth, women and men at the grass-roots levels, can contribute to defusing tensions in a post-conflict situation and can help prevent them before the situation deteriorates. If interreligious and intrareligious dialogue is implemented in the right format and with a wide selection of participants, it may ultimately lead to a wider knowledge in the society at large of the history, traditions, languages and cultures of the various religious minorities. Artists, journalists and lawyers may also be important in terms of public education regarding religious tolerance and in building bridges between different communities.

47. All the media should, as a moral and social responsibility, play a role in combating discrimination and in promoting intercultural understanding, including by considering the following: (a) taking care to report in context and in a factual and sensitive manner, while ensuring that acts of discrimination are brought to the attention of the public; (b) being alert to the danger of discrimination or negative stereotypes of individuals and groups being furthered by the media; (c) avoiding unnecessary references to race, religion, gender and other group characteristics that may promote intolerance; (d) raising awareness of the harm caused by discrimination and negative stereotyping; and (e) reporting on different groups or communities and giving their members an opportunity to speak and to be heard in a way that promotes a better understanding of them, while at the same time reflecting the perspectives of those groups or communities.[44]

M. Signs of intolerance that may lead to discrimination

48. It is vital to give due attention to early warning signs of discrimination and violence on the grounds or in the name of religion or belief. In her latest thematic report to the Human Rights Council, the Special Rapporteur identified a number of early warning signs with regard to State actors, non-State actors and external factors (A/HRC/13/40, paras. 18-32).

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[43] E/CN.4/2002/73, appendix.

[44] The Camden Principles on Freedom of Expression and Equality, Principle 9; available at www.article19.org/advocacy/campaigns/camden-principles/index.html.

49. One early warning sign with regard to State actors is the lack of adequate legislation ensuring freedom of religion or belief in all its dimensions. A second early warning sign is a lack of accountability for crimes and patterns of impunity following a human rights violation targeting members of a specific religious or belief community. In addition, the existence of significant patterns of religious discrimination in State practices and policies needs to be watched and addressed. Similarly, the persistent negative stereotyping in public speeches by elected or other officials targeting members of specific religious or belief communities is a matter which can aggravate latent tendencies to discriminate.

50. Violent attacks by non-State actors on persons based on their religious affiliation, or violence perpetrated in the name of religion or belief are further indicators that warrant State intervention. The degree and persistence of religious tensions at the societal level should be watched closely. The spreading of messages of religious hatred by religious leaders and opinion-makers in the mass media or by individuals in blogs and online discussion sites should give rise to measures to enhance tolerance through a number of initiatives, including dialogue and support to alternative voices.

51. In addition, there are a number of external factors that might hamper the enjoyment of freedom of religion or belief in a given society. Such external factors could be related to upcoming elections, hate campaigning on religious lines and divisive vote-bank politics. Tensions that subsist over a long period of time may be another early warning sign, in particular if they are linked to past conflicts over places of worship, land, power or religious identity. Furthermore, natural disasters and the arrival of foreign missionaries may trigger demands from some religious groups to curb so-called "unethical conversions", as was the case in certain States following the tsunami of December 2004 in the Indian Ocean.[45]

52. The Special Rapporteur would like to emphasize that States should not necessarily respond to such early warning signs by legislating or even criminalizing certain actions. Rather, States should draw on a toolkit of various preventive measures and initiatives, which could include, for example, encouraging interreligious and intrareligious dialogue, providing support to alternative voices within communities and offering quality education in order to build more tolerant and equal societies. Members of religious minorities need to be able to have their voices heard by being given adequate access to State authorities and decision makers. In this context, the executive power, the administration and political leaders should develop human rights-based policies and communication strategies.

III. Activities of the mandate

53. The Special Rapporteur wishes to provide a brief overview of her activities with regard to: (a) communications sent to States concerning individual cases; (b) the Special Rapporteur's country visits; and (c) other activities undertaken by the mandate holder.

[45] See the Special Rapporteur's report on her mission to Sri Lanka (E/CN.4/2006/5/Add.3, paras. 32-78) and her thematic report to the General Assembly (A/60/399, paras. 55-68).

A. Communications

54. One of the main activities undertaken by the Special Rapporteur is to engage in constructive dialogue with States by sending them communications to seek clarification on credible allegations received. Since the establishment of the mandate in 1986, the Special Rapporteur has sent more than 1,200 allegation letters and urgent appeals to a total of 130 States. The communications sent by the Special Rapporteur between 1 December 2008 and 30 November 2009, as well as the replies received from Governments, are summarized in the latest communications report she submitted to the Human Rights Council (A/HRC/13/40/Add.1).

55. Throughout the past six years, almost 50 per cent of the Special Rapporteur's communications to States were sent jointly with other special procedures mandate holders. The Special Rapporteur welcomes this important collaboration with thematic and country-specific mandates, especially in view of the fact that violations of the right to freedom of religion or belief by its very nature are often coupled with violations of other human rights.

56. In some instances, the Special Rapporteur has also sent follow-up communications to request further clarification or information from the State concerned. While the Special Rapporteur has taken up some individual cases for a second time, in particular in the absence of a State reply and when new developments warrant sending another allegation letter or urgent appeal, the main follow-up to communications is carried out by local, national or international civil society organizations. The Special Rapporteur would like to emphasize the importance of being kept informed of any positive or negative developments in the relevant cases, including by the victims or the sources of the allegations.

B. Country visits

57. Country visits are an essential part of the Special Rapporteur's activities as they offer an important opportunity for the mandate holder to interact with various State officials and to meet representatives of religious or belief communities and other members of civil society. In her country reports, the Special Rapporteur tries to identify existing and emerging obstacles to the enjoyment of the right to freedom of religion or belief and to present practical recommendations on ways and means to overcome such obstacles. Since 1986, the Special Rapporteur has conducted 32 country visits, including one follow-up mission. A list of the country visits, including the mission dates and corresponding document symbols, is contained in the Special Rapporteur's latest thematic report to the Human Rights Council (A/HRC/13/40, para. 13).

58. The Special Rapporteur has re-established the mandate's initial approach[46] of sending follow-up letters after country visits to request updated information about the implementation of her recommendations at the national level. In November 2009, the Special Rapporteur transmitted follow-up tables to the Governments of the eight countries which she had visited from 2005 to 2007. Those tables contain the conclusions and recommendations from her mission report and follow-up information from relevant United Nations documents, including reports of the

[46] See A/51/542, annexes I and II; A/52/477/Add.1; A/53/279, annex; and E/CN.4/1999/58, annex.

universal periodic review mechanism, special procedures and treaty bodies. A third column contains information provided by the State on the consideration given to the recommendations, the steps taken to implement them and any constraints which may prevent their implementation. Those follow-up tables are available online at the mandate's website.[47]

59. Since submitting her previous report to the General Assembly (A/64/159), the Special Rapporteur conducted a mission to the Lao People's Democratic Republic from 23 to 30 November 2009. At the end of her visit, she concluded that the populace in the Lao People's Democratic Republic is generally very tolerant on religious matters. During the past 12 years, however, the Special Rapporteur has received a number of serious allegations of human rights violations by the State, such as arrests on the basis of religion, or official campaigns aimed at forcing Christians to renounce their faith. The situation seems to have significantly improved recently, yet the Special Rapporteur remains concerned about individual cases and certain policies that clearly violate freedom of religion or belief. She would like to reiterate that any legislative text should avoid imposing vaguely worded obligations on religious communities, including with regard to registration procedures, and should discontinue the extensive oversight powers currently given to various Government entities in this regard. The Special Rapporteur recommends a review of Decree No. 92/PM for the Management and Protection of Religious Activities and suggests that explanatory policy directions be passed on to the provincial and district levels to avoid any discriminatory interpretation.[48]

C. Other activities

60. The Special Rapporteur attended numerous meetings with representatives of States, religious and belief communities and civil society organizations to consider the situation of freedom of religion or belief at the national and international levels. On 23 October 2009, for example, she participated in a round-table discussion on "Special procedures: early warning and emerging issues", held in New York. She also delivered a keynote speech on the role and significance of the special procedures of the Human Rights Council, at a meeting organized on 1 December 2009 in Bangkok by the OHCHR Regional Office for South-East Asia.

61. The Special Rapporteur also undertook research on issues linked to her mandate and published related articles, for example with regard to children's religion or belief,[49] as well as concerning missionary activities and conversion issues.[50] Together with other special procedures mandate holders, she issued public statements on the occasion of Human Rights Day (10 December), International Women's Day (8 March), and the World Day for Cultural Diversity for Dialogue and Development (21 May).

62. In the joint statement of 10 December 2009 the mandate holders called for stronger commitments and more determined action globally to defeat

[47] www2.ohchr.org/english/issues/religion/visits.htm.

[48] A/HRC/13/40/Add.4, para. 66.

[49] See Child Rights Information Network (CRIN) Review 23, October 2009, pp. 18-19.

[50] See Marianne Heimbach-Steins/Heiner Bielefeldt, eds., *Religionen und Religionsfreiheit — Menschenrechtliche Perspektiven im Spannungsfeld von Mission und Konversion* (Würzburg, 2010), pp. 47-56.

discrimination.[51] They stated that ethnic, cultural or religious differences should be acknowledged, valued and respected, not be seen as a threat to unity, as they too often were, but as a celebrated component of it. The mandate holders emphasized that societies which rejected discrimination and embraced diversity and rights, created the conditions for all to grow and prosper in equality and dignity. Discrimination distorted that vision and damaged all societies in immeasurable ways. For those harassed, threatened or arrested because they had a different religion or belief, it was a constant reminder that they were not welcome. Discrimination silenced those who most needed a voice to speak out for their rights and denied those who most needed a place in the structures of society, including in decision-making processes.

63. In their joint statement of 8 March 2010, 28 mandate holders called for a new vision of women's rights, informed by the lessons learned from the 15-year review of the implementation of the Beijing Platform for Action.[52] The mandate holders emphasized that old challenges in the protection of women's rights remained, such as multiple forms of discrimination, and that new challenges had emerged. They concluded that the participation of women in all contexts, be it in peacetime or in conflict or post-conflict situations, or in other types of crisis, such as natural disasters or financial crises, was a requisite element not only for the protection of their rights, but also to achieve peace, security and sustainable human development.

64. To mark World Day for Cultural Diversity for Dialogue and Development, seven mandate holders stressed in their joint statement of 21 May 2010 that defending diversity went hand in hand with respect for the dignity of the individual.[53] Cultural diversity could be protected and promoted only if human rights and fundamental freedoms, such as the freedom of expression, information and communication, freedom from discrimination of any kind, as well as the ability of individuals to choose their form of cultural expression, and their right to participate or not to participate in the cultural life of given communities, were guaranteed. The mandate holders emphasized that cultural diversity should not be used to support segregation and harmful traditional practices which, in the name of culture, sought to sanctify differences that run counter to the universality, indivisibility and interdependence of human rights.

IV. Conclusions and recommendations

65. **The Special Rapporteur recognizes that religious issues are particularly sensitive. States play a very delicate role in promoting freedom of religion or belief and at the same time protecting people from abuses that are perpetrated against them in the name of religion or belief. In that regard, it is rewarding to see that States, civil society and individuals have taken up difficult challenges in trying to confront the forces of intolerance. Regrettably, those courageous voices are few and far between. Instead, there seems to be a trend towards an apologetic approach where religion or belief is used as an instrument of oppression.**

[51] www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9668&LangID=E.
[52] www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=98778&LangID=E.
[53] www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=100518&LangID=E.

66. It is a challenge for many States to end all forms of discrimination on religious grounds and to create an informed public opinion that can effectively counter religious bigotry or prejudice against emerging belief communities. The Special Rapporteur has noticed with regret that, as far as her mandate is concerned, public denunciation of human rights abuses is often selective; the religion of the victim and of the perpetrator, rather than the act itself, seems to be a determining factor as to who feels obliged to publicly condemn an incident. It is imperative that all human rights violations be adequately addressed, regardless of the religious affiliation of the perpetrator or the victim.

67. In the present report (see paras. 5-52 above), the Special Rapporteur has provided some examples from her mandate practice since 2004 to illustrate what steps should be taken to protect and promote freedom of conscience, thought, religion or belief. In this context, she would like to reiterate the following recommendations:

(a) Constitutions and other domestic legislation must, by law and de facto, guarantee freedom of religion or belief and the principle of non-discrimination;

(b) States should ensure that no one within their jurisdiction suffers from human rights violations, including deprivation of the right to life, liberty or security of person, torture, arbitrary arrest or detention, because of religion or belief, and States should bring to justice all perpetrators of such human rights violations;

(c) States should enact legislation to eliminate harmful cultural practices and discrimination against women, and should withdraw reservations which may adversely affect or restrict international legal instruments concerning the protection of the status of women;

(d) States should promptly provide redress in situations where persons have been discriminated against in their access to education, medical care, employment, humanitarian assistance or social benefits;

(e) States should review registration practices to ensure that such practices do not limit the right of any persons to manifest their religion or belief, either alone or in community with others, in public or in private;

(f) States should not deny official documents on the grounds of religion or belief and should respect the individual's right not to reveal his or her beliefs;

(g) States should guarantee the rights to worship, assemble or teach in connection with a religion or belief, to establish and maintain places for those purposes and to write, issue and disseminate relevant publications in those areas;

(h) States should ensure that religious sites are fully respected and protected, and should adopt adequate measures aimed at preventing any related acts or threats of violence;

(i) States should respect and protect the freedom to establish and maintain religious, charitable or humanitarian institutions, in accordance with

appropriate national legislation and in conformity with international human rights law;

(j) States should provide appropriate awareness-raising, education and training so that public officials, in the course of fulfilling their official duties, respect freedom of religion or belief and do not discriminate for reasons based on religion or belief;

(k) States should take all necessary and appropriate action to combat hatred, discrimination, acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, in particular with regard to members of religious minorities;

(l) States should promote and respect educational policies aimed at eradicating prejudices and conceptions incompatible with freedom of religion or belief, and at ensuring respect for and acceptance of pluralism and diversity in the field of religion or belief;

(m) States should respond to early warning signs of intolerance, for example by encouraging interreligious and intrareligious dialogue, providing support to alternative voices and offering quality education to build more tolerant and equal societies.

68. The Special Rapporteur would like to emphasize that religious intolerance is not a natural outcome of diverse societies. Rather, intolerance is often the product of manipulation by a few groups, political forces or individuals for various reasons. History, both contemporary and much earlier, has proven that issues of religion or belief are highly emotive. As the germs of religious intolerance spread, it is hard to contain them. The structure of the State, its method of governance and its educational policies may, depending on their design and implementation, either help in creating religious harmony or contribute to religious tension. Preventive activities by States and by non-State actors, including religious leaders, and commitment to fundamental human rights are therefore key to creating an atmosphere of religious tolerance.

69. The Special Rapporteur strongly believes that the mandate needs to continue highlighting discriminatory practices that women have had to suffer over the centuries and continue to do so, sometimes in the name of religion or within their religious community. It can no longer be taboo to demand that women's rights take priority over intolerant beliefs that are used to justify gender discrimination. During the Special Rapporteur's missions and interaction with religious leaders she has been repeatedly told that most religions recognize gender equality. Yet, religious zealots and their followers often launch campaigns to discriminate against women rather than support gender equality. Many women are denied basic rights of equality within the most fundamental social unit, the family. In a number of countries, such denial of their rights is supported by discriminatory legislation and justified in the name of religion or tradition. There can never be true gender equality in the public arena if women continue to be oppressed by the weight of discrimination within their homes, all too often in the name of divine sanction.